

March 8, 1984

## CONGRESSIONAL RECORD — HOUSE

H 1499

the potential benefits. I urge my colleagues to cosponsor this legislation. ●

● Mr. CORCORAN. Mr. Speaker, I am pleased today to join Congressman JAMES T. BROYHILL and several of our Energy and Commerce Committee colleagues from both sides of the aisle in introducing the Methanol Policy Act of 1984.

This legislation would encourage the production and utilization of methanol through the implementation of a modest Federal program whose cost would be \$26.5 million over 5 years. The program would focus on encouraging the utilization of methanol-powered vehicles by Federal agencies. The Federal Government has one of the largest motor vehicle fleets in the world. This legislation would also encourage the use of methanol-powered buses that are subsidized by the Federal Urban Mass Transit Administration.

I am particularly interested in this legislation because it would encourage the utilization of high sulfur coal, such as that mined in Illinois. The use of methanol would provide an alternative market for high sulfur coal. This is particularly important in view of current efforts by some in the Congress to enact a stringent acid rain control program, a program which would be especially devastating to the Illinois coal industry as well as to Midwest utility ratepayers such as those in Illinois. I spoke out on this issue at last Monday's acid rain field hearing in Chicago by the Energy and Commerce Committee's Subcommittee on Health and the Environment.

Mr. Speaker, I recommend this legislation as an appropriate Federal approach to promote the use of a fuel that has no negative environmental consequences and can provide an alternative market for high sulfur coal such as that mined in Illinois. ●

#### IMMIGRATION INEQUITIES NEED TO BE CORRECTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, we take great pride in the fact that our Nation is a nation of immigrants—men and women who made their way to our shores for a better way of life and for the freedoms they did not have in their mother countries.

Our Immigration and Nationality Act has been amended many times to make its regulations more just and equitable. Public Law 89-236, for example, repealed the national origins quota concept as a system for selecting immigrants to the United States and substituted a ceiling on Eastern Hemisphere immigration on a first-come, first-served basis, within various preference categories, and a 20,000 limit per country. Public Law 94-571 further amended the Immigration and Naturalization Act to apply the seven-category preference system, as well as

the 20,000-per-country limit, to the Western Hemisphere as well as the Eastern Hemisphere. Public Law 95-412 contained the two ceilings in a single worldwide ceiling of 290,000 with a single preference system.

Some foreign nationals are inadvertently still being discriminated against, despite the new limitations. Ireland, for example, was the mother country for millions of our "new seed" immigrants in the last century. These hard-working men and women helped make our Nation great.

Ireland used 6,328 immigrant visas in fiscal 1964 and only 746 for fiscal 1982. And, as far as we know, this reduction was not voluntary. When we realize that since 1820, over 4,692,856 immigrants have come from Ireland, we begin to get a sense of the problem. It seems that the natives of countries highly favored by the national origins quota system almost by definition are more apt to have ancestors buried here than close relatives who can petition for their entry. Because so many Irish came so long ago, the preference quota system—brother or sister of a U.S. citizen for example—rarely applies.

In 1965, we were assured that upon passage of the new immigration amendments, all nationalities would be treated on an equal footing. History has taught us otherwise. Thousands of deserving immigrants are unable to qualify for visas under the new law and immigration from those countries has dwindled considerably.

Therefore, I have introduced legislation to correct this inequitable situation which has gone on for too many years, and urge my colleagues to extend their bipartisan support. ●

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

[Mr. GONZALEZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

#### GREATER OVERSIGHT NEEDED ON CONGRESSIONAL TRAVEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HUGHES) is recognized for 60 minutes.

● Mr. HUGHES. Mr. Speaker, the subject of foreign travel by Members of Congress has come under increasing scrutiny and criticism by the news media, as well as members of the general public.

That scrutiny has raised issues about whether some of the itineraries are as justifiable as they can be, or if the goals of certain trips might be accomplished by some other, less expensive, means.

Some of that criticism is unwarranted and based on exaggerations. Other criticism is unwarranted and based on exaggerations. Other criticism, howev-

er, does point out the need for us to do a better job policing ourselves.

Accordingly, I have today introduced an amendment to the rules of the House governing foreign travel. Specifically, my resolution would require all foreign travel to be approved by a roll call vote of the committee authorizing the trip. Each trip proposal would have to be accompanied by a detailed itinerary, a statement of the anticipated public benefits from the trip, a certification that the mode of travel is the lower cost reasonably available, and a justification for each person on the manifest.

The implementation of my proposal would make foreign travel decisions a part of our committee voting records, which would have to be justified at election time as with any other vote. I believe that this plan would give much greater credibility to those trips which are deemed worthwhile and justified.

At the same time, this legislative review would make more likely the disapproval of trips which may be unnecessary, unjustifiable, or of only marginal value.

Mr. Speaker, we would not approve the expenditure of millions of dollars for any other Government activity without some formal legislative review, and congressional travel, which has an aggregate cost in the millions, should be no exception.

My proposal represents a workable and responsible way to exercise oversight on our own practices, establish our own accountability for travel decisions, and permit worthwhile and productive travel to take place under prescribed rules. ●

#### INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, last year the Congress enacted a major new initiative in the war against drugs. Section 1003 of the State Department Authorization Act, more commonly known as the "Gilman-Hawkins Amendment," after its major sponsors, is an important effort to let other nations know we mean business in fighting illicit narcotics production and trafficking. It also requires the executive branch to report annually on the worldwide illicit drug situation in a comprehensive and detailed manner, and to consult with the Congress on U.S. efforts to combat the entry of illicit drugs into the United States. The legislation further requires that the substance of these consultations be printed in the CONGRESSIONAL RECORD.

On February 23, 1984, the House Foreign Affairs Committee's task force on international narcotics control held a hearing with five executive branch witnesses to review the required annual report. I would like to com-

33

H 1500

## CONGRESSIONAL RECORD — HOUSE

March 8, 1984

mend my colleagues Ed FEIGHAN and BEN GILMAN, cochairmen of the task force, for taking prompt action to hold this hearing.

Pursuant to subsection (f) of section 1003 of Public Law 98-164, I am including in today's RECORD the testimony of the executive branch witnesses on this important issue.

TESTIMONY OF ASSISTANT SECRETARY DI-CARLO, BUREAU OF INTERNATIONAL NARCOTICS MATTERS

Mr. Chairman, the Committee has received copies of the Department's International Narcotics Control Strategy Report, in accordance with P.L. 98-164 which was adopted last November. Given the length of that report, and the number of witnesses consulting with the Task Force at this hearing, I will limit my opening statement to a brief review of the major findings in the report. My remarks are organized in terms of the information requirements of the law.

A. OVERVIEW OF FINDINGS

*Status:* First, we were asked to provide an assessment of the status of narcotics production and trafficking. The first chapter of the report includes preliminary worldwide production estimates for calendar year 1983, and reports on key program developments in source countries. Each country report also includes a status assessment on production and trafficking in illicit narcotics.

The preliminary estimates of the Production Subcommittee of the National Narcotics Intelligence Consumers Committee indicate that gross cultivation of opium, marijuana and coca increased in 1983 in the principal growing regions which supply the U.S. market.

But, these reports also show that eradication levels increased in several key countries, and that seizures also increased, as did the amount of hectareage taken out of cultivation through government bans, crop substitution programs and enforcement activities. Moreover, the available data show that local demand is increasing rapidly in many source countries. Thus, in some countries, the amount available for export did not change, or did not change as much as the increase in cultivation. Moreover, there were declines in gross cultivation of opium poppy in Pakistan, Thailand and Laos.

The report provides production estimates for the years 1981 through 1985, and provides NNICC estimates on imports through 1982. Analysts are continuing to study these preliminary 1983 estimates on production levels and the implications for trafficking and consumption. The NNICC Committee anticipates having its report on 1983 production and import estimates completed by June.

It should be noted that the data suggest important changes within markets. For example, the four-year downward trend in Pakistani opium poppy cultivation continued, but indications are that opium cultivation increased by perhaps one-third in Afghanistan, while heroin refining also increased.

The Production Subcommittee's assumption is that gross coca cultivation increased in 1983 in Peru and Bolivia, as well as in Colombia, for which we have better data, but the available information does not currently permit a reliable projection on the two larger producers. However, our information also indicates that this increased production results, at least in part, from the maturing in 1983 of bushes which were planted during peak price years, three to five years ago. Today, prices are down at every link in the cocaine trafficking chain; the indication is that there has been over-production of leaf

and coca derivatives; there is increased consumption of coca paste; and, traffickers in South America are aggressively establishing new or larger markets in Europe and elsewhere.

The preliminary NNICC data continue to show an upward trend in cannabis cultivation in Mexico and Jamaica, while Colombian cannabis cultivation in 1983 has apparently returned to about the 1981 levels.

*U.S. Assistance:* Second, we were asked to provide details on the various kinds of U.S. assistance provided to narcotics source countries. This report illustrates how the Department proposes to allocate \$41.2 million in foreign assistance funds in fiscal year 1984 for drug control programs, and the proposed allocation of \$50.2 million in fiscal year 1985. These sections cross-reference relevant activities of the U.S. Agency for International Development, the Drug Enforcement Administration, other U.S. agencies, and international organizations. Also reported are data on allocations under general U.S. assistance categories and data on loans by international development banks.

*Impact of U.S. Assistance:* Third, we were asked to provide an assessment of the impact of U.S. assistance on narcotics control. The public report we have submitted focuses upon narcotics-related assistance. Departmental assessments of the overall impact of non-narcotics assistance fall into three categories, which are not necessarily exclusive: first, that other U.S. assistance does not impact, negatively or positively, on the country's narcotics control decisions or performance; second, that such assistance positively affects the overall disposition and capability of the country to cooperate with U.S. drug control objectives; and third, that, in some cases, a termination of U.S. assistance for narcotics policy reasons would impact negatively on the country's disposition to control illicit drugs, notwithstanding the first or second factors.

In general, the economic and other non-narcotic assistance does and should continue to affect positively each recipient country's disposition to cooperate with the United States in achieving progress in illicit drug control. But, there are specific implications associated with various kinds of assistance, and impacts differ. Given the time constraints of producing a report in early February in response to complex legislation adopted in mid-November, the sensitivity of the subject, the need for more information from some countries, and the difficulty of analyzing this information, much of which is classified, we have provided an analysis of the impacts of narcotics related U.S. assistance. The Department plans to submit a classified report and respond to further questions on this matter in a later hearing.

*Plans, Programs and Timetables:* Fourth, we were asked to comment on the development of plans, programs and timetables for narcotics control. Some governments have adequate, countrywide narcotics control strategies; others have strategies for specific target areas (including the strategies required under program agreement with INM and AID); others have little more than goals and objectives. On balance, planning has improved.

*Legal and Law Enforcement Measures:* Fifth, we were asked to assess the adequacy of the legal and law enforcement measures taken by various countries relative to narcotics control. Some countries like Burma and Malaysia have very strict penalties for narcotics violations; some like Pakistan have just adopted new laws designed to enhance enforcement; others are still considering changes; and a few have an inadequate legal base for law enforcement. In sum, this is an

area in which we think there has been considerable improvement in recent years.

*Accomplishments:* Sixth, we were asked to provide information on accomplishments in narcotics control for the various source countries. There was substantial progress in 1983. The Pakistanis suppressed opium production in the Malakand agency; a development assistance program which is linked to narcotics control was initiated in the Gadoon-Amazai area; and the Pakistanis expanded their actions against heroin laboratories. Agreements on a crop control program were signed with Bolivia in August, 1983. Peru began coca eradication in the Upper Huallaga Valley. Colombia intensified its manual eradication efforts and disclosed plans for testing herbicide eradication for both coca and marijuana. The Government of Italy pledged \$40 million to the United Nations Fund for Drug Abuse Control, for coca control-related development projects in South America. The Mexicans, who reported a significant expansion in opium eradication, collaborated effectively on a herbicidal eradication program in Belize. The specific gains (or reverses) associated with each country's effort to cope with narcotics production and/or trafficking are noted in the country reports.

*Planned Reductions:* Seventh, we were asked to provide estimates of the planned reductions achievable in narcotics production by the producing countries defined in the statute. Generally speaking, our report shows that these countries are projecting reductions in one or more categories: cultivation, refining, or trafficking. These reductions vary from country to country, and category to category.

*Nature of the Problem:* Eighth, we were asked to provide an assessment of the nature of narcotics production. While coca prices at the farmgate declined in South America, farmers continued high levels of production, both to attempt to keep their gross incomes at previous levels and also out of need to harvest maturing coca bushes which had been planted during the peak price years. Mexican growers were planting crops in more inaccessible, higher altitudes, and fields larger than previously seen have been spotted recently.

Opium production continued to decline in Pakistan, but increased significantly in Afghanistan which continued to supply Pakistani heroin laboratories. While Colombian traffickers are now cultivating more coca leaf, to enhance their dominant position as refiners, Bolivian traffickers are sending less of their paste to Colombia and are now refining it into cocaine base or cocaine and routing their contraband through Argentina, which is also becoming an important final stage refiner of cocaine. Colombian traffickers are believed to be responsible, at least in part, for opening new marijuana fields in Venezuela, and new production activity in Brazil.

*Factors Affecting Production:* Ninth, we were asked to provide an assessment of the various factors affecting production. The principal factors are price, climate, demand, and government action. Parallel with our intensified diplomatic initiatives, perhaps the most salient local factor driving narcotics control actions in 1983 was domestic drug abuse in the producing countries, followed by broadening recognition of the adverse effects of an uncontrolled drug trade on a country's economic and political stability.

Increasing demands for narcotics to satisfy expanding domestic drug abusing populations are also keeping production levels up. As explained in more detail in the country reports, the stimulus for farmers and traf-

March 8, 1984

## CONGRESSIONAL RECORD — HOUSE

H 1501

flickers to continue cultivation, production and trafficking is economic. Even with depressed prices at the farmgate, growers can frequently earn more from growing narcotics crops than from traditional agriculture. Overall, fears of disrupting local economies and political stability continue to work against narcotics control efforts, while domestic drug abuse, economic disruption, international pressures, the involvement of political insurgencies in the narcotics trade, and the penetration of organized political systems by traffickers worked to promote such control efforts.

**Methodology:** Tenth, we are asked to report on the methodologies used to project reductions in production. The report provides details, by country, of the various methodologies used, including negotiated agreements on levels of eradication to be achieved. We are working with other agencies and governments to improve both forecasting and monitoring capabilities in the field. Throughout these reports, there are caveats and footnotes reporting on the multiple assumptions underlying the estimates.

**Resource Requirements:** Eleventh, we are asked to provide an estimate of additional resources needed to achieve planned reductions. The response is largely written in terms of projected 1985 levels of INM assistance, which are reflected in our proposed budget and program plan. This document has been made part of the Department's report.

## SUMMARY

In sum, this report shows again that there are no simple or easily obtained answers to all of the questions about the impacts of drug abuse, drug trafficking and control programs.

While we have a broad knowledge of the social, political and economic environments of these countries, and a base of detailed information on narcotics production and trafficking, we have understandable difficulties in measuring the extent of current cultivation and projecting the effectiveness of control programs, just as we have difficulty in predicting the precise impacts of either drug trafficking or drug abuse on local economies or populations, or measuring economic dislocations, or analyzing domestic drug abuse and demand.

Yet, while some observations may lack statistical precision, we know from our discussions with officials in these countries, and from our own assessments, that adverse social, political and economic impacts are creating an improved environment for negotiating control agreements. No nation is really invulnerable to the problem of drug abuse, and, those nations which engage in our indulge narcotics production and trafficking ultimately pay a price that is greater than the temporary benefits they are thought to realize.

Moreover, we can assess and see the benefits of those control programs which we have assisted.

These improved program efforts and the growing recognition in source countries that the liabilities of narcotics trafficking and drug abuse are outweighing the benefits are the basis for our belief that more can and will be accomplished.

## ERRATA

Two changes should be noted in the complete International Narcotics Control Strategy Report submitted to Congress.

Page 4: In the section discussing the Western Hemisphere, the first paragraph on Mexico should conclude: The preliminary estimate is that the net availability of Mexican heroin in the United States in 1983 was 1.41 metric tons, the same approximate level

as in 1981, but higher than the estimate for 1982 (1.35 metric tons).

Page 17: The Department has submitted, as part of the INCSR, the FY 1985 budget and program plan for INM, which contains regional strategies as well as details on country programs. To avoid duplication, the regional strategies which the text on page 17 indicates as appearing at the start of each chapter of country reports now appear in the separate budget document.

Page 28: The data table for Belize should be changed to read:

	1984	1983	1982	1981
Cultivation:				
Cannabis (mt) .....	(*)	700	250	850
Cannabis (ha) .....	(*)	620	190	
Eradication:				
Cannabis (ha) .....	(*)	592.5	91	0
Arrests .....		722	620	543

\* The amount of cultivation and production of cannabis in 1984 and 1985 will depend, in large part, on the continued success of aerial eradication operations. I.e., it is possible that the number of fields planted could decrease significantly after spraying operations in 1984.

Page 40: The seizure data is reported in kilograms for cocaine and metric tons for marijuana.

Page 93: The correct footnote explaining "arrests" is #4. The correct footnote explaining "marijuana seizures" is #5. Marijuana seizures are in metric tons.

#### INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT TO COMMITTEE ON FOREIGN RELATIONS, COMMITTEE ON FOREIGN AFFAIRS (Prepared by Bureau of International Narcotics Matters, Department of State)

## I. INTRODUCTION

The Department of State's International Narcotics Control Strategy Report has been prepared in accordance with the provisions of Sec. 461, Foreign Assistance Act, as amended by P.L. 95-104. As required by law, the Department of State and the Departments of Justice, Defense, Treasury, and Health and Human Services, as well as the Agency for International Development, are prepared to meet with members of the Committee on Foreign Relations and the Committee on Foreign Affairs to review worldwide illicit drug production and the policy programs and role of the United States Government in combating the entry of illicit narcotic and psychotropic drugs and other controlled substances into this country. This report has been prepared in primary consultation with the Drug Enforcement Administration and other offices and agencies.

This report consists of the following sections:

- I. Introduction.
- II. Summary Assessment:
  - A. 1983 Production Estimates.
  - B. 1983 Program Developments.
- III. Review of the International Program.
- IV. 1984-85 Program Strategy and Budget (summary).
- V. Regional Strategies and Country Reports.

Submitted with and made part of this report is the Congressional Presentation of the Bureau of International Narcotics Matters (INM) which provides detail on regional and country strategies, budgets and programs.

## II. SUMMARY ASSESSMENT

## A. 1983 production estimates

The National Narcotics Intelligence Consumers Committee has developed, through its production subcommittee, preliminary estimates on illicit narcotics production in calendar year 1983. As further information is received from posts and the intelligence community, these data will be revised and

published in the 1983 NNICC narcotics intelligence estimate.

The 1982 data and preliminary estimates for 1983 are:

	1982	1983
(In metric tons)		
<b>Opium</b>		
Southwest Asia:		
Afghanistan .....	250-300	400-575
Iran .....	400-500	400-600
Pakistan .....	50-75	45-60
Total .....	700-875	845-1235
Southeast Asia:		
Burma .....	600	600
Laos .....	90	35
Thailand .....	57	35
Total .....	747	670
Mexico .....	16	17
Opium total .....	1,423-1,808	1,532-1,922
<b>Coca leaf (illicit)</b>		
Bolivia .....	33,000-40,000	39,000-44,000
Peru .....	30,000	36,000
Colombia .....	5,000	12,000
Total .....	68,000-82,000	87,000-92,000
<b>Marijuana</b>		
Colombia .....	9,000-14,000	12,300-15,000
Mexico .....	750	700-1,400
Jamaica .....	1,750-1,500	2,450
Belize .....	250	820
Total .....	11,750-14,500	16,280-18,480
<b>Heroin</b>		
Afghanistan .....	150	250
Laos .....	600	700
Mexico .....	60	60
Pakistan .....	220	220
Total .....	1,030	1,230

Much of the production data in this report should be considered preliminary, some even speculative, and must be considered as data for which attempts are being made at improvement and refinement.

## B. Program developments

A significant development in 1983 was the continued escalation of domestic drug abuse and drug-related problems. Country reports show that domestic drug abuse increased, as a problem and as a government concern which could influence narcotics control decisions, in virtually every growing region and source country. For example, Colombia, which is concerned about the rapidly-expanding problem of youths' smoking "basuco," held a national drug abuse prevention conference in September. In Pakistan, where there were no reported heroin cases in 1980, the estimate in 1983 was over 100,000 heroin addicts.

## Western Hemisphere

The Government of Mexico increased its opium poppy and cannabis eradication efforts in 1983 in response to efforts by traffickers to expand, camouflage and diversify cultivation. The Mexican Attorney General's Office reports that the U.S. assisted program eradicated 2,473 hectares of opium poppy, compared to 1,211 hectares in 1982, and 2,674 hectares of cannabis compared to 886 hectares in 1982. The preliminary estimate is that the net availability of Mexican heroin in the United States in 1983 was 1.42 metric tons, approximately the same as the 1981 level (1.41) but higher than 1982 (1.39).

The Governments of Belize and Mexico, with United States support, joined in a cooperative effort to eradicate over one thousand, two hundred acres of cannabis in a 13-day operation in October.

The Mexican and United States governments collaborated at year's end in testing a high performance agricultural spray air-

H 1502

## CONGRESSIONAL RECORD — HOUSE

March 8, 1984

plane (the Thrush fixed wing aircraft) and a new spray boom which promises more effective spraying patterns at higher altitudes and speeds.

The Government of *Bolivia* signed four agreements in August 1983, which have the long-term objective of reducing that country's coca cultivation to levels needed for legitimate purposes. The agreements include U.S. assistance in crop eradication, in developing police strike forces to establish law and order in the Chapare growing region, and to establish a system for managing the licit coca production industry. The indications are that Bolivian coca production increased by an undetermined amount during 1983, and that Bolivian traffickers are trying to capture more of the market profits, by increasingly refining more Bolivian coca leaf into paste and base for direct sales, rather than shipping the raw product to *Colombia* for processing and export.

The Government of *Colombia* announced it will undertake a pilot program in 1984 to test various methods of eradicating coca bushes and cannabis plants. *Colombia* has steadily increased its manual eradication and seizures of both coca leaf and marijuana, and their derivatives, utilizing equipment and other resources provided by the U.S. Government. *Colombia* continues to be the major supplier of cocaine and marijuana to the United States.

The U.S. supported interdiction program has been increasingly effective over the past three years. In 1981, the Colombian interdiction program succeeded in seizing 3,310 metric tons of marijuana, a 345 percent increase over 1980, and 66.4 million units of methaqualone, a 380 percent increase. In 1982, Colombian officials seized 3,409 metric tons of marijuana, 41 million units of methaqualone, as well as 881 kilograms of cocaine. The authorities also shut down 277 cocaine laboratories. In 1983, the Colombians seized 3,934 metric tons of marijuana, and 2,800 kilograms of coca leaf, while manually eradicating 1,981 hectares of coca leaf and 1,048 hectares of cannabis cultivation.

The Government of *Peru* began eradicating coca bushes in mid-1983, pursuant to an assistance agreement with the U.S., and estimates that eradication will expand from 703 hectares in 1983 to 4000 hectares in 1984. The indication is that coca production expanded in 1983, in part a result of bushes maturing which had been planted in earlier years. Peruvian seizures of cocaine, coca paste and base in 1982 were down from 1981 levels, but seizures of dried coca leaf rose sharply from 26,781 kilograms to 85,454 kilograms, and 178 jungle-based cocaine labs were destroyed, compared to 53 in 1981. For 1983, the Peruvians also destroyed 87 laboratories and seized 85,500 kilograms of leaf, 110 kilograms of cocaine, and 4,290 kilograms of coca paste.

The Government of *Jamaica* expanded its cannabis eradication program from 221 hectares to 350 hectares in 1983. The Government has announced its intention to support a broader enforcement effort, including passage of new laws against illicit air strips. The U.S. Government has offered to assist in a control program.

The USG's Latin American regional program has included: enforcement assistance to *Belize*, which has participated in a joint cannabis eradication program with the Government of *Mexico*; assistance to the Government of the *Bahamas* to increase the mobility of its anti-narcotics forces; training and maintenance assistance to the Haitian Navy's fleet of patrol vessels for a series of surveillance actions in the Windward Passage, a key trafficking route between *Colombia* and the U.S.; establishment of a telex link between selected Caribbean and

Central American countries and the Coast Guard for the passage of vessel trafficking intelligence to the U.S. authorities; and provision of limited telecommunications, vehicular, and other equipment to *Costa Rica* for use in anti-drug activities. Many of the Caribbean countries have received INM-funded training through DEA and/or U.S. Customs.

The Government of *Italy* announced in November, 1983, a pledge of \$40 million over five years to the United Nations Fund for Drug Abuse Control, primarily to support coca control programs in South America. The Italian contribution significantly increases the UNFDC budget, and it marks a much-needed involvement by the United Nations in the effort to control production of cocaine.

## Southwest Asia

Over half of the heroin entering the U.S. originates as opium in Southwest Asia. Pakistan is considered to be the key to that trade, as an opium producer, a heroin refiner, and a transshipment point for other Southwest Asia opium. The Government of Pakistan has reduced opium cultivation to 45-60 metric tons (1983), continuing the decline from the peak of 800 metric tons in 1979. The Pakistani government has extended its ban on opium production into previously uncontrolled or marginally controlled areas. In late 1981, the Pakistani government eradicated opium poppy by forceful action in the Buner area of the Northwest Frontier Province (NWFP) the first such effort in a so-called "merged" area—and repealed the action in 1982. In January, 1982, the GOP seized a heroin processing laboratory in the Northwest Frontier Province—overcoming armed tribal resistance—and, since December 1982, tribal leaders have directed the closing of 41 heroin laboratories in the Khyber Agency, after meetings with government officials.

The understanding with Pakistan is that it will enforce the poppy ban in "merged areas" where developmental assistance is provided. The Government of Pakistan has reiterated its commitment to enforce its ban on opium cultivation, specifically in the Malakand Agency where an INM-funded integrated rural developmental project is being implemented, and, in the Gadoon-Amazal area where the Agency for International Development has begun a narcotics-related development program. It is estimated that the Gadoon-Amazal project area accounted for about half of the 1982/83 opium poppy production. Pakistan has also accepted restrictive poppy clauses which commit the government to keep USAID project areas free of opium poppy. Overall, a combination of drought, low prices, government pressure, and a U.S.-assisted alternative crop program have reduced Pakistani opium production from an estimated 75-125 metric tons in 1981 to an estimated 50-75 metric tons in 1982, and to 45-60 metric tons in 1983.

Turkey continues to be effective in controlling diversion from its licit opium cultivation, and controlling against illicit opium cultivation; the United States and other donors support Turkey's effort to prevent refining and transshipment of illicit narcotics from Southwest Asia.

## Southeast Asia

The Thai Government began sizeable military operations in January 1982, against the principal opium trafficking group on the Thai-Burmese border, the Shan United Army, and in 1983 continued the pressure against illicit drug trafficking groups with permanently deployed, narcotics targeted military companies. These actions have disrupted trafficking and refining activities. The Thai Government has also been effective

in reducing the availability of precursor chemicals used in converting opium to heroin. However, these chemicals are increasingly available from other sources in the region. The Thai have begun, with United States assistance, Civilian-Police-Military command projects to curtail cultivation as part of a program of transitional assistance to selected villages.

The Burmese government reports increased opium seizures (6 metric tons) and manual opium poppy crop destruction (equivalent of 44 metric tons) including eradication in areas where the Burmese Communist Party is involved in trafficking. In 1983, the Burmese conducted operations in northern areas against traffickers, and destroyed 9 heroin laboratories.

## III. REVIEW OF THE INTERNATIONAL PROGRAM

## Department of State: Role and responsibilities

**Role:** The responsibility for international narcotics control, conferred upon the President by Section 481 of the Foreign Assistance Act and upon the Secretary of State by Executive Order, has been delegated to the Assistant Secretary of State for International Narcotics Matters (Authority No. 145, February 4, 1980). This function was assigned to the State Department because the United States believes that narcotics control is a matter of government responsibility under international treaties that should be dealt with as a matter of international obligation and concern.

The international narcotics control program is one of five parts of the Administration's program to reduce the drug abuse problem in the United States. The program also includes: education and prevention; treatment and rehabilitation; law enforcement; and research. The overall program, which features the personal leadership of the President, Vice President Bush, Secretary Shultz and the Attorney General, is coordinated through two Cabinet Councils, and pursues government-wide objectives set forth in the Federal Strategy for Prevention of Drug Abuse and Drug Trafficking.

**INM Programs:** the responsibilities and programs of the Bureau for International Narcotics Matters (INM) include: policy development and program management; diplomatic initiatives; bilateral and multilateral assistance for crop control, interdiction and related enforcement activities in producer and transit nations; narcotics-related development assistance; technical assistance for demand reduction; training for foreign personnel in narcotics enforcement and related procedures; and coordination of international efforts with domestic drug abuse strategies. INM is responsible for negotiating, implementing, monitoring and terminating narcotics control agreements with other governments.

**Goals and Objectives:** The Department's primary narcotics goal is to reduce the flow of illicit drugs from their sources to the United States. All of the heroin and cocaine, and most of the marijuana and other illicit drugs consumed in the United States are of foreign origin. The worldwide supply of heroin, cocaine, marijuana and other drugs is so great and trafficking channels to the United States so diverse that major interdictions and even crop eradication, when achieved in only one or two producing areas, have caused only temporary declines in availability. The Bureau's program strategy is predicated on the ultimate objective of simultaneously controlling cultivation and production in all key geographic sectors of illicit drugs exported to the United States, so that significant and lasting reductions in availability are achieved. The Bureau places

March 8, 1984

## CONGRESSIONAL RECORD — HOUSE

H 1503

its highest priority on crop control in source countries and its second priority on interdiction of drugs as they move from producing areas through transit countries to the United States.

**Strategy:** The major drug producing countries are parties to international conventions which obligate them to control the production and distribution of illicit drugs. The Bureau's international strategy is based on encouraging and, where necessary, assisting these countries to meet their responsibilities for reducing cultivation, production, and trafficking in illicit narcotics within their borders. The strategy includes the following activities:

Diplomatic initiatives which: clarify the importance of narcotics control as a bilateral foreign policy issue; seek agreements on controlling narcotics; underline the threat posed by illicit drugs to other countries as well as the United States; seek an upgrading of the foreign policy priority assigned to narcotics control; secure the participation by other governments in funding and otherwise supporting international narcotics control projects; and improve the international environment for operations by United States agencies engaged in international narcotics control;

Bilateral assistance to selected governments whose expertise or resources are insufficient to enable them to take effective measures to meet their treaty obligations to control illicit drugs;

Multilateral assistance through the United Nations Fund for Drug Abuse Control and other regional and international agencies and organizations;

Participation in international organizations: to supplement our bilateral diplomatic initiatives with producer and transit nations; to demonstrate the global nature of illicit drug trafficking; and to enlist other governments in diplomatic and financial support of international narcotics control projects, both bilaterally and multilaterally;

In cooperation with the Drug Enforcement Administration, Customs Service, and Coast Guard, provision of training to foreign narcotics control personnel designed to improve and expand foreign enforcement efforts, and achieve self-sufficiency in interdiction; and

Demand reduction technical assistance programs which: alert other governments and community leaders to the societal threat posed by illicit drug abuse; seek to decrease demand in producing countries which serves as a local incentive to illicit cultivation; and enhance U.S. efforts to obtain narcotics control agreements by demonstrating concern for deleterious effects in other countries.

**Coordination and Cooperation:** The Department of State and specifically INM cooperate with various U.S. agencies, especially with the Drug Enforcement Administration, as well as the Agency for International Development, U.S. Customs, U.S. Coast Guard, the National Institute on Drug Abuse, and other units within the Departments of Agriculture, Justice, Treasury, Commerce, Defense and Transportation to halt the flow of narcotics into the United States. In addition to cooperation on country programs, this cooperation and coordination takes many forms, including joint participation in: the Cabinet Council on Legal Policy and its Working Group on Drug Supply Reduction; the Cabinet Council on Human Affairs and its Working Group on Drug Abuse Health Issues; international task forces formed by these working groups; the National Narcotics Border Interdiction System and South Florida Task Force; the Oversight Working Group meetings of the White House Drug Abuse Policy

Office; intelligence meetings; and coordination meetings with DEA.

INM works closely with DEA throughout the world, with emphasis on collaboration in Latin America, Southwest and Southeast Asia. In addition to their direct responsibilities for technical assistance, casebuilding and other investigatory activities, DEA agents work with INM narcotics coordinators in assessing the nature and degree of the drug problem, and in working with host government law enforcement agencies on planning and implementing action strategies.

The Agency for International Development has funded a rural development project in Peru's Upper Hualaga Valley, has approved a development project for Pakistan's Gadoon-Amazal area, and is prepared to implement development projects in Bolivia, in accord with the 1983 agreement on a coca control plan. INM has been involved in the planning of these projects, just as AID assisted in the design of INM's Malakand project in Pakistan.

The United States Information Agency, in coordination with INM, seeks to inform the peoples of the three major growing regions, with special current emphasis on Peru, Bolivia and Colombia, about the major efforts underway to reduce U.S. drug abuse and to curtail domestic cultivation of marijuana.

**Training:** Crop control must be supported by a strong enforcement effort, and the Department cooperates with governments on the development of local police and customs capabilities to enforce domestic laws against trafficking. INM funds international narcotics training provided by DEA and Customs. From FY 1971 to FY 1982, approximately 24,580 foreign officials participated in courses designed to increase their operational skills and build institutions.

**Intelligence:** The Department of State is both an important collector of narcotics intelligence information and the primary consumer of finished narcotics intelligence on policy-level international narcotics developments. The Department took the lead in pressing the National Foreign Intelligence Board (NFIB) agencies to expand their narcotics intelligence roles. The Department has been a long-time advocate of closer coordination between NFIB collectors and U.S. law enforcement organizations which collect foreign narcotics information in the performance of their narcotics duties. The Department has particularly sought enhanced coordination of these activities under the guidance of the Director of Central Intelligence.

**Diplomatic Initiatives:** Drug abuse affects all nations from the poorest to the wealthiest, countries which produce and traffic in drugs, and those which are only consumers of drugs. Historically, the U.S. Government has borne much of the costs of international control programs. The U.S. funds bilateral narcotics control projects in Mexico, Peru, Bolivia, Colombia, Brazil, Ecuador, Thailand, Burma, Pakistan and Turkey, as well as projects in key transit nations in the Caribbean such as Belize, the Bahamas, and Haiti, among others. The United States narcotics control strategy includes diplomatic initiatives to achieve greater participation by and program coordination with other governments; the United States is urging these nations to assist through narcotics control programs and through direct economic assistance to producer countries.

The United States is encouraging larger contributions as well as an increase in the number of donors, and also seeks a higher foreign policy priority for narcotics control. INM, with explicit support from Secretary Shultz, has held discussions with Governments in Canada, the South Pacific,

Europe, the Middle East and Japan, to seek greater international narcotic control efforts from them, both bilaterally and through international organizations. As noted, the Government of Italy has pledged \$40 million to UNFEDAC, primarily to support coca control projects in South America. Norway and Sweden have also indicated interest in supporting development programs to achieve coca control.

**International Organizations:** United Nations agencies monitor and apply controls on the flow and use of narcotic and psychotropic substances, and coordinate multilateral efforts to control production, trafficking and abuse. Since its founding in 1971 with United States sponsorship, the United Nations Fund for Drug Abuse Control (UNFEDAC), has been a vehicle for multilateral implementation of narcotics control and demand reduction programs.

The United States addresses the international narcotics problem in the United Nations General Assembly, the Economic and Social Council, the Commission on Narcotic Drugs (which is the U.N. policymaking body on drug matters), and other U.N. organs. In addition to UNFEDAC, these include the International Narcotics Control Board (INCB), the World Health Organization (WHO), and the Division of Narcotic Drugs (DND). In 1982, the Commission on Narcotic Drugs adopted a long-term global strategy and a basic five-year action plan, which calls for enhanced, expanded efforts by UNFEDAC, DND and the INCB.

Recent U.S. emphasis has been on encouraging European involvement in coca control programs in South America; UNFEDAC is actively promoting an Andean control project in response to an ECOSOC resolution in 1982.

Several countries earmark portions of their UNFEDAC contributions for specific projects, including the Federal Republic of Germany (Pakistan); Norway (Burma); Sweden (Afghanistan, Pakistan and Laos); and, Australia (Burma and Thailand). The United States also earmarks portions of its UNFEDAC contribution for projects in key narcotics producing countries, particularly source countries in Latin America. The United States remains disappointed by the number of countries undertaking bilateral narcotics control programs. The Federal Republic of Germany and Australia are the only other significant sponsors of bilateral projects.

**Other Actions:** Other units within State, Treasury and Justice also have drug-related concerns, including off-shore haven banking, such as the banking practices of the Cayman Islands which have permitted almost unimpeded movement of narcotics. DEA, the FBI and Customs have conducted successful, long-term investigative actions against illegal cash flows. The State and Justice Departments, in consultation with other U.S. law enforcement agencies, are actively exploring with various Caribbean countries the possibility of concluding agreements such as mutual legal assistance and extradition treaties to strengthen bilateral cooperation on law enforcement matters, including the sharing of financial information. U.S. efforts to obtain financial information from the Netherlands Antilles, for example, will be enhanced by the Treaty on Mutual Assistance in Criminal Matters, concluded between the United States and the Netherlands, and made applicable to the Antilles.

## IV. 1984-85 PROGRAM STRATEGY

**Fiscal year 1985 Budget:** The highlight of the proposed fiscal year 1985 budget is the substantial expansion of funds for crop

H 1504

## CONGRESSIONAL RECORD — HOUSE

March 8, 1984

eradication programs, reflecting program initiatives begun in fiscal year 1983 and anticipated in fiscal year 1984. The program allocations for fiscal year 1984 are shown in an attached summary.

**Latin America:** Particular attention has been focused on Colombia, which in 1983 produced most of the marijuana imported into the U.S., and exported up to three-fourths of the cocaine consumed in the United States. The fiscal year 1985 budget assumes that a large-scale marijuana eradication program will have been successfully negotiated with the Colombian government in fiscal year 1984. The fiscal year 1985 budget request anticipates continuing the program implemented in fiscal year 1984.

Similarly, the fiscal year 1985 budget for Bolivia assumes further implementation of the agreements concluded in August 1983 for an eradication program designed to reduce Bolivia's coca cultivation to levels required for legitimate purposes. The increased fiscal year 1984 budget was predicated on implementing a program of voluntary eradication, followed if necessary by mandatory, government eradication. Control of excess registered cultivation and total elimination of non-registered cultivation would occur in stages. The total effort includes a related rural development program funded by USAID.

The Bureau continues to provide aviation and technical support of the successful Mexican program to control narcotics production.

Implementation of the U.S.-supported crop control program in Peru was not begun until April 1983, and 703 hectares were eradicated in that year. Peruvian officials have given assurances that the crop control program will be sustained; the expectation is that 4,000 hectares will be eradicated in 1984. The Bureau continues to support the anti-narcotics enforcement efforts of Peruvian agencies.

For fiscal year 1985, INM's Latin American regional program will continue to focus upon targets of opportunity to support crop control and interdiction efforts. Assistance could include provision of telecommunications equipment, aircraft services, and commodity support.

**Southwest Asia:** The Pakistanis have eradicated opium poppy in the Malakand Agency, where crop control is linked to an INM development assistance program, and are committed to enforcing their ban on production in the Gadoon-Amazai area, where an Agency for International Development narcotics-related project was initiated in 1983. Planning was also begun on developing programs for the Dir area, and the Pakistanis announced the extension of their ban and new narcotics laws into the tribal areas. The Bureau continues commodity and training assistance to Pakistan narcotics enforcement agencies to upgrade their capabilities.

INM provides funds to the Turkish National Police and the Jandarma to upgrade the transportation, communications, equipment and training needed to combat drug refining and trafficking.

**Southeast Asia:** INM supports crop control related development assistance projects in areas of Thailand where there is a firm commitment to cease production of opium and Royal Thai government efforts to enforce these commitments. In 1985, INM will support cultivation control projects in 20 village clusters under Civilian-Police-Military commands. Crop control funds will also support the annual opium survey, and an extension training program. In 1985, the North Thailand Border Security and Development project will attempt to consolidate the previous years' gains of the border en-

forcement project by providing support for the economic and infrastructure development of the village located in the project area. Other U.S. assistance will support RTG anti-narcotics enforcement activities on the Thai-Malaysian border, and will incorporate assistance to Thai Customs.

U.S. assistance to Burma in 1985 will continue transportation and communications support to increase the ability of Burmese military and police enforcement agencies to survey poppy growing areas, to engage in crop destruction, to interdict narcotics shipments, and to control opium production. **Other Activities:** INM funds training for foreign law enforcement officials, which is provided by DEA and/or U.S. Customs, at Federal training sites or in foreign countries. The objectives are to support INM's country and international objectives by assuring the availability of trained manpower to implement host government control programs, and to assist foreign governments in achieving self-sufficiency in narcotics controls.

Technical assistance in demand reduction is provided through a variety of channels, including direct INM assistance with a priority on aiding producer government in controlling domestic demand and internal drug problems. Other channels include support for regional and international demand reduction projects, participation in international agency programs and fora, provision of materials, conduct of special demand reduction training programs, and providing linkage between U.S. national and international demand reduction efforts.

**Europe and International Organizations:** The United States narcotics control strategy includes diplomatic initiatives to achieve greater participation by and program coordination with other governments, particularly in Europe. Heroin and illicit pharmaceuticals have for some years been abused by Europeans at levels comparable to United States abuse rates and cocaine abuse is reportedly increasing. The United States strongly encourage narcotics control initiatives and program assistance to producing and transit countries.

Considerable diplomatic and program assistance coordination with the Europeans continues to be conducted through international organizations, particularly organs of the United Nations. The United Nations Fund for Drug Abuse Control has been a major multilateral vehicle for enforcement, supply reduction, and demand reduction programs. In countries such as Thailand, Burma, and Pakistan, UNFDC is engaged in income-substitution efforts which complement and supplement USG projects and objectives. Emphasis was given by UNFDC in 1982-83 to generate support for a coca control program in the Andean region in response to a resolution passed by the United Nations General Assembly.

#### V. REGIONAL STRATEGIES AND COUNTRY REPORTS

This section contains individual chapters for: Latin America, The Caribbean, Southeast Asia, Southwest Asia, and Africa.

Each chapter begins with a regional strategy, and summaries of INM and other programs in specific countries, followed by country reports which respond to the major requirement of Public Law 98-164.

##### Country reports

For purposes of these country reports, the major requirements of the Act have been categorized as follows:

##### Status Assessment

- (1) Status Assessment of Narcotics Production/Trafficking
- (2) Current U.S. Assistance
- (3) Impact of U.S. Assistance on Narcotics Control

(4) Country Plans/Timetables for Narcotics Control

(5) Adequacy of Legal and Law Enforcement Measures

(6) Accomplishments

##### Analysis of Production

(1) Nature of Problem (production/refining/use)

(2) Factors Affecting Production

(3) Planned/Projected Reductions in Production & Refining

(4) Methodology Used in Estimating Reductions

(5) Additional Assistance Required

The definitions used in developing this report include:

"Major Producing Country" is defined by the statute to mean any country which cultivates or refines five or more metric tons of opium or opiate derivatives, or five hundred or more metric tons of coca leaf or coca derivatives, or five hundred or more metric tons of cannabis or its derivatives. (Derivatives are expressed in equivalents, e.g., 500 KG of heroin equals 5 MT of opium, and 1 mt of cocaine equals 500 MT of coca leaf.)

"Major Trafficking Country" has been defined by the Department to mean those countries which tranship five or more metric tons of opium or opiate derivatives, or five hundred or more metric tons of coca leaf or coca derivatives, or five hundred or more metric tons of cannabis or its derivatives.

The analysis of production is reported only for "major producing" countries. Also, estimates of additional assistance required are provided only for "program countries" which includes those countries currently receiving INM narcotics related assistance. A few other countries which INM considers as having a significant role in the U.S. narcotics situation are also included in the report.

##### Data estimations

This annual report contains a variety of data on cultivation, refining, trafficking and consumption of illicit narcotics, and also data on eradication, seizures, land taken out of production, and other phenomena. These data have been provided by the National Narcotics Intelligence Consumers Committee, U.S. Embassies, and foreign government agencies.

Yields and other production factors can vary from country to country. For example, opium production varies from 8-10 KG per hectare in Mexico to as high as 18 per hectare or higher in Pakistan. Coca yields vary from 1 MT of leaf per hectare in Peru and Columbia to 1.6 MT in Bolivia. Columbia has higher yields per hectare for marijuana than some other countries.

While the problems of measurement and assessment are manifold, the lack of credible, current survey data is particularly acute with respect to coca leaf cultivation and cocaine production. Not only are there the general problems of trying to estimate production in South American source countries, there are needs to identify the size of and consumption rates for both traditional coca chewing and the increasing coca paste abusing populations—who create a local demand that helps sustain production, but, whose habits can reduce the amount of end product available for trafficking to the United States.

An attempt has been made to "account" for the production in a few countries—starting with cultivation and then subtracting for seizures of raw product; amounts refined; seizures of refined products; local demand/consumption of raw product; local demand for refined products; amounts shipped to other countries; amounts seized enroute or at U.S. borders; and, finally,

March 8, 1984

## CONGRESSIONAL RECORD — HOUSE

H 1505

from the remainder, estimating the net amount available for consumption in the United States.

The available data generally do not permit empirical analyses. A given country may have acceptable estimates on cultivation, yield, and refining, but the available data on local demand may be of such poor quality as to put the whole assessment at risk. In many countries, the initial estimate of cultivation may be little more than an assumption based upon educated guesses.

In sum, the effort here has been to provide the Congress with "the best estimate available."

#### *Efforts to improve data and analysis*

In 1984, INM will support narcotics surveys for major source countries supplying illicit narcotics to the United States.

In 1983, a Subcommittee on Production was formed under the auspices of the National Narcotics Intelligence Consumers Committee. The intention is that this group, utilizing the latest available narcotics intelligence, will make periodic updates to the annual NNICC estimates, and, by concentrating its focus on production, improve U.S. monitoring and knowledge of trends in international narcotics production. The Subcommittee was used to produce many of the projections in this report.

#### *Impact of United States assistance on the narcotics problem*

This portion of the country reports focuses on U.S. narcotics-related assistance provided under authority of the FAA Sections 481/482 or by the Agency of International Development in projects with so-called "poppy" or "coca" clauses. Departmental assessments of the overall impact of other U.S. assistance fall into three views, not necessarily mutually exclusive. These are that U.S. non-narcotics assistance; (1) does not impact, negatively or positively, on the country's narcotics control decisions or performance; (2) affects positively the overall disposition and capability of the country to cooperate with U.S. drug control objectives; and (3) in some cases, that regardless of (1) and (2), a termination of U.S. assistance for narcotics policy reasons would impact negatively on the country's disposition to control illicit drugs.

In general, the economic and other non-narcotic assistance does and should continue to affect positively each recipient country's disposition to cooperate with the United States in achieving significant progress in illicit drug control. It is assumed that the Congress may wish to explore in some detail specific implications and impact of assistance. The Department will be prepared, therefore, to respond to additional questions on the impact of U.S. non-narcotics assistance on the narcotics problem in the consultative process envisaged in Subsection (f) of the amendment to P.L. 98-164. Should this involve sensitive matters of foreign policy, Congress or the Department may wish to convoke executive sessions.

#### *Other Dangerous Drugs*

This annual report, in keeping with the emphasis of the Congress concerning production of heroin, cocaine, and marijuana, concentrates on those major illicit drugs. However, INM, DEA and other agencies who carry out the international program of the U.S. Government are also concerned with the importation of other dangerous drugs.

The NNICC estimate is that the overall supply of illicit dangerous drugs (stimulants, depressants, hallucinogens) declined from 3.34 billion dosage units in 1981 to 3.03 billion dosage units in 1982.

Clandestine laboratories in this country supply all of the PCP, nearly all of the

methamphetamine, and about 80 percent of the amphetamines consumed in the United States, the latter augmented by some smuggling from Mexico.

The bulk of the illicit methaqualone and counterfeiters are smuggled from Colombia, and to a lesser extent, Canada. Within the past two years, the international community has significantly increased regulatory controls regarding the manufacture and distribution of methaqualone. These actions have resulted in a shortage in the amount of bulk power available for processing. Colombia has imposed import controls, and the People's Republic of China and Austria have agreed to curtail production and impose export controls on the base substance, while Switzerland, an important transit country, has imposed import/export controls. All of these actions are the result of U.S. diplomatic initiatives.

The NNICC reports that an important new phenomenon is the growing problem of drugs of legitimate pharmaceutical origin produced in Mexico and diverted into the United States.

Internationally, the U.N. Commission on Narcotic Drugs, in concert with the World Health Organization, has the function of identifying and recommending the scheduling of drugs, i.e., the controls over licit narcotics and psychotropic substances.

#### *STATEMENT OF GARY D. LIMING, DEPUTY ASSISTANT ADMINISTRATOR FOR INTELLIGENCE AND CHAIRMAN, NATIONAL NARCOTICS INTELLIGENCE CONSUMERS COMMITTEE ON WORLD-WIDE DRUG PRODUCTION ESTIMATES*

Mr. Chairman and members of the House Foreign Affairs Committee Task Force on International Narcotics Control, I appreciate the opportunity to discuss the development of illicit drug production estimates for the International Narcotics Control (INC) Strategy Report. I appear here today in a dual capacity, first as the Deputy Assistant Administrator for Intelligence, Drug Enforcement Administration (DEA), and second as the Chairman of the National Narcotics Intelligence Consumers Committee (NNICC). The NNICC has been producing annual estimates concerning the foreign production of illicit drugs and their movement into the United States since 1978. In addition, the NNICC Subcommittee on Production Estimates actively assisted the Department of State in the development of estimates included in the first INC Strategy Report and will continue to support the development of future reports.

The 1983 INC Strategy Report represents the best estimates available at this time concerning crop cultivation, yield, eradication and other drug removals in each area. The estimates were developed as an extensive cooperative effort by the Department of State, the NNICC, U.S. Embassies and foreign governments. The embassies submitted reports in response to a questionnaire disseminated by the Department of State Bureau of International Narcotics Matters (INM). The country reports represent a collection of information available at the field level from all sources, including the host government. In addition, members of the NNICC Production Estimates Subcommittee provided existing estimates and developed independent assessments based upon data supplied by participating agencies. These assessments were then used to cross-check and supplement field reports and to provide INM with data on denied areas such as Iran and Afghanistan where no country input was possible. Finally, the NNICC Production Estimates Subcommittee reviewed all input and recommended the final estimates.

The resulting INC Strategy Report is noteworthy in that it is the first compre-

hensive collection of data from all drug source countries based upon a consistent time frame and content. The bulk of the information provided by the U.S. Missions was well-prepared, thoughtful and accurate insofar as data were available. Nevertheless, it should be noted that much of the production data in the report, as noted therein, "should be considered preliminary, some even speculative, and most should be considered as data for which attempts are being made at improvement and refinement." A large part of the problem is inherent in the process of estimating illicit drug activities. Other problems are unique to the INC Strategy Report because of the required reporting schedule.

The INC Strategy Report estimates are based upon many of the same data and methodologies which are used to develop the Narcotics Intelligence Estimate (NIE), an unclassified national assessment produced by the NNICC on an annual basis. The NIE allows the 11 agencies with an interest in narcotics intelligence to speak with one voice on the production and use of illicit drugs.

DEA has chaired the NNICC and performed a central role in the development of its annual estimates since 1978. Other organizations represented on the NNICC include the Department of State (INM); Department of Defense; Federal Bureau of Investigation (FBI); Internal Revenue Service (IRS); National Institute on Drug Abuse (NIDA); U.S. Customs Service; U.S. Coast Guard; and the White House Drug Abuse Policy Office. The Central Intelligence Agency (CIA) and the National Security Agency (NSA) participate as observers.

Since mid-1981, long-term initiatives have been undertaken to improve both the accuracy of data available to the NNICC estimation process and the quality and balance of the resulting estimates. As a result of these initiatives, in 1982 we developed our first reliable estimate of the amount of acreage dedicated to cannabis cultivation in the primary source area, Colombia. Other similar efforts in data collection are being implemented or planned wherever possible. In 1983, the NNICC Production Estimates Subcommittee, representing DEA, INM and CIA, was established to review current production estimates and act as a clearinghouse for new data. In addition, major refinements continue to be made in the methodology used for the NIE.

Nevertheless, the basic problem with the NIE has been and continues to be an insufficient amount of accurate information in many areas because of the covert and illicit nature of the activities being estimated, host government inability to collect and record accurate data, denied access or a range of other problems. The estimates developed for the INC Strategy Report are affected by many of these same factors. These obstacles will continue to affect the quality of estimates concerning illicit drug production and trafficking in foreign countries, although gradual improvements are continually being made.

The validity of the data for our estimates is determined, to a great extent, by the method of collection. Collection resources vary from area to area. For example, the use of human intelligence sources prevails in Southwest Asia; therefore, estimates depend largely on limited observations in Afghanistan and Iran, which are denied areas. In Iran, estimates are dated and probably inaccurate. In Afghanistan, estimates are based upon limited human intelligence samplings and the wide range of the estimate (400 to 575 metric tons) is indicative of our confidence level. We do have reasonable

H 1506

## CONGRESSIONAL RECORD — HOUSE

March 8, 1984

confidence in our estimates concerning production in Pakistan, but at this point Pakistani production represents less than 10 percent of the total output in the region.

Even with a high priority and a good host government relationship, collection is often extremely difficult in major production areas. Central government authority is weak in many of these locations. In the Golden Triangle, for example, one-half to two-thirds of Burma's production of approximately 800 metric tons of opium occurs in Burmese Communist Party (BCP) controlled areas of the eastern and northern Shan State which lie beyond the Rangoon Government's reach. Moreover, the military stalemate between the Burmese Government and the Communist rebels indicates that opium production in those areas will continue unchecked. Likewise, the heroin refineries in the Golden Triangle are largely concentrated along the Thailand/Burma border in locations outside governmental control and run by well-armed insurgent forces and trafficking organizations.

Problems, such as rough terrain, lack of communications systems and inadequacy of host government resources, also limit our collection capabilities. For example, none of the estimates concerning coca cultivation in Peru or Bolivia are based on current, systematic surveys using acceptable statistical sampling techniques or modern aerial technology. The capability exists for conducting such surveys, but they are both time and resource intensive. Both Bolivia and Peru, as well as many other drug source countries, have limited resources and funding available to maintain current data on acreage under cultivation.

Data concerning the availability of drugs to world markets is also affected by the lack of accurate drug abuse data within the respective countries. In most cases, estimates of local consumption are based on "official" host government figures. In Asia, as well as other areas, countries tend to minimize their abuse problems and consistently underestimate their abuse population. Burma, for example, lists only 7,500 addicts when realistically the number should probably be much higher, given the proximity to production areas and distribution routes, high availability and low prices. Hong Kong claims only 45,000 to 50,000 addicts, when twice that number are believed to exist.

Finally, although past activities can be measured with some degree of success, it is difficult to project future activities with a high degree of certainty. Production, eradication, seizures and arrests are not static from year to year and are significantly affected by changes in government, governmental policy, weather and enforcement emphasis. In Asia, for example, the single most important factor concerning production is the weather. The 1979 and 1980 opium harvests in the Golden Triangle were reduced to approximately 200 metric tons (less than one-third of subsequent harvests) because of drought conditions. Since the drought years, the Golden Triangle has enjoyed three bumper opium crops. The importance of Southwest Asian heroin on the international market is largely relative to weather conditions in the Golden Triangle.

Traditional weaknesses in data and inconsistency in methodology are exacerbated by the early reporting date required by Public Law 98-164. The requirement for an annual report concerning the previous fiscal year to be submitted to Congress by February 1 is impossible to meet if we are to make full use of all data which are normally used in developing estimates. A major component of the data base, especially as it concerns eradication, arrests and seizures, is derived from host government statistics which are not

available by U.S. Government fiscal year, but are available by calendar year. Because we must report on a calendar year basis, the February 1 deadline does not allow sufficient time for full collection, transmittal and analysis of year-end data. This problem could largely be corrected by changing the reporting date to March 15 when most calendar year data are available.

In conclusion, I will note that the most significant developments highlighted in the INC Strategy Report are perhaps the increased initiatives being undertaken by governments around the world to reduce their drug abuse and production problems. Many of these initiatives are related to greater awareness by foreign governments of their own internal drug abuse problems, an awareness which will be heightened by continued refinement of our knowledge concerning the worldwide drug situation.

Thank you for this opportunity to summarize the key elements involved in the development of intelligence estimates for the INC Strategy Report. We welcome the active involvement of the Congress in the effort to reduce the supply of illicit drugs from foreign sources, and we will continue to do everything possible to provide the information necessary to support the decision making process. I shall be pleased to answer any questions you or other members of the Committee Task Force may have.

STATEMENT OF RICHARD A. DERHAM, ASSISTANT ADMINISTRATOR, PROGRAM AND POLICY COORDINATION FOR AGENCY FOR INTERNATIONAL DEVELOPMENT

Mr. Chairman, I am Richard A. Derham, Acting Assistant Administrator for Program and Policy Coordination in the Agency for International Development. It is a pleasure to appear before you today to update you on our efforts to reduce production of illicit narcotics overseas.

A.I.D. is acutely aware of its responsibilities to help reduce the cultivation of illicit narcotics that affects 15 million Americans who use cocaine and 500,000 American users of heroin.

A.I.D. continues to play an important role in support of the President's Federal Drug Abuse Strategy. We work closely with State/INM as part of the overall U.S. strategy in coordinating our activities to ensure a proper response to the problem of narcotics cultivation in countries where we have programs.

Eliminating the production of narcotics is, in part, a development problem. Large scale cultivation of illicit drugs takes place in developing countries usually by farmers who are extremely poor. In general, there is no one crop that can provide a viable economic alternative to those farmers who have traditionally produced narcotics. Efforts at reducing the production of narcotics are further complicated by the remoteness of the growing areas and the strength of local social and cultural traditions.

The Gilman Amendment, Section 126 of the Foreign Assistance Act, instructs A.I.D. to "give priority consideration to programs which would help reduce illicit narcotics cultivation by stimulating broader development opportunities."

We continue to evaluate our approaches to the problem of narcotics production in the developing world. We have an A.I.D. Narcotics Policy Coordinator who works with the regional bureaus to insure our programs address the narcotics issue. We also have a new Director of Strategic Studies, Martin Howell, whose first project is to review A.I.D. activity in the narcotics reduction area. He will review our current course of action and make recommendations on

possible enhancements to our existing efforts and identify new avenues by which to attack the problem.

I would like to come to you today with stories of A.I.D.'s instant success in increasing the income of the rural poor and reducing the production of narcotics. However, development is a long term effort and quick results are seldom achieved. Long term success in reducing the production of narcotics requires basic changes in the economic behavior of the regions where narcotics are produced. Long term success not only requires a commitment to that change, but a realization that is cannot be accomplished over night.

The successful implementation of enforcement and eradication efforts is a sine qua non for the success of an income substitute effort. Prerequisite for a successful program include the firm commitment of the host government to suppress narcotics cultivation coupled with its ability to project its influence into narcotics cultivation areas; without these, there is very little likelihood that U.S. assistance will result in any significant reduction of illicit drug production in any given country. Where eradication efforts are underway, A.I.D.'s development expertise can provide alternate crops, fertilizer, irrigation systems, and other resources to encourage enforcement of existing bans by host government authorities and acceptance of eradication by residents of the affected areas. The following countries are major producers of opium or coca in which A.I.D. has a presence.

## PAKISTAN

In late FY 1983 the \$20 million Gadoon-Amazai Area Development project as initiated, covering approximately half the current poppy cultivation area of the country. Poppy cultivation is well integrated in the local society, which is resource poor, and not self-sufficient in basic food grains. Poppies are grown in marginal land and there are a few obvious crop alternatives. Providing alternative sources of income will be a major undertaking, requiring significant investment in infrastructure, institutional development and human resources.

With this project, A.I.D. enters a new phase in its support of the poppy eradication policies of the U.S. and the Government of Pakistan, in which specific development programs may be directly linked to specific enforcement activities. Phase I of the Gadoon-Amazai project will produce immediate and highly visible benefits such as roads, potable water systems, school repairs and construction. It will also involve programs to increase production of wheat and provide seed and fertilizer to farmers. Phase II will involve long-range projects such as development of off-farm employment opportunities.

A.I.D. also assisted the Government of Pakistan in preparing a Special Development and Enforcement Plan for the opium producing areas for presentation at the December 1983 meeting of the Pakistan Consortium in Paris. The presentation was designed to enlist other donors in the narcotics control effort, and a number of multilateral and bilateral donors indicated they may become involved. The plan is designed to eradicate existing poppy cultivation throughout the Northwest Frontier Province and to prevent its resurgence or introduction into non-producing areas.

A.I.D. is a member of the U.S. Embassy Narcotics Coordinating Committee in Islamabad which acts to ensure a responsive and coordinative U.S. efforts. We currently have "poppy" clauses in agricultural, irrigation, rural electrification and energy projects.

March 8, 1984

## CONGRESSIONAL RECORD — HOUSE

H 1507

The A.I.D. mission has a full time narcotics project management officer who ensures that all projects in our portfolio contribute to narcotics reduction efforts to the maximum extent possible. Finally, we have worked with and will continue to offer assistance to INM in its Malakand-area project.

## THAILAND

Thailand's production of opium is limited. A.I.D. administers one project in Thailand that is indirectly related to achieving narcotics reduction objectives. The Mae Chaem Watershed Development project contains a "poppy" clause to prevent narcotics producers from obtaining development benefits, but it is primarily designed to increase income and access to social services for the residents of the watershed in Northern Thailand. The project is also intended to reverse environmental damage to the area caused by improper use of the areas resources. The total funding level of the project is \$10 million and \$3.1 million remains to be obligated. It is too early to evaluate impact of the project on narcotics production from Thailand.

## BURMA

We do not currently have any A.I.D. programs in Burma. Moreover, preparation of a narcotics-related development project still seems premature in light of the Burmese interests in interdiction of narcotics traffic and suppression of opium production—activities that are the proper domain of State/INM. In addition, the poppy growing region is inaccessible and the safety of American personnel would not be certain.

Should an appropriate narcotics-related development project be found, A.I.D. would give it serious consideration. We will continue to discuss the situation in Burma with State/INM.

## BOLIVIA

In Bolivia, A.I.D. is embarking on a new crop substitution effort in conjunction with an INM eradication program. The U.S. Government and Government of Bolivia entered into a Five-Year Coca Crop Control project in August 1983. Internal Bolivian political difficulties prevented the issuance of a decree creating the Bolivian agency responsible for narcotics-related development projects until mid-January. The Secretariat for the Development of the Bolivian Tropics is now in place and the way is clear for implementation of the Five-year, \$14.4 million Chapare Regional Development Project. The development project is supplemented by \$20 million in infrastructure loans targeted for Chapare region. These loans will contain "coca" clauses to prevent benefits from flowing to coca growers.

The Chapare Regional Development Project will provide credit for both local agribusiness and to Chapare farmers cooperating with the INM-assisted coca eradication program. The availability of credit should help expand production and promote markets for commercial livestock, agricultural and forestry products from the Chapare Region.

## PERU

A.I.D. and INM are engaged in an effort to reduce production of coca in the Upper Huallaga region of the Peruvian high jungle. The A.I.D. Upper Huallaga Area Development Project began in 1981. The project is providing a wide range of services to farmers in the region including alternative crops in the region such as rice, cacao, citrus fruits and coffee. Extension agents travel the valley providing farmers with improved methods. Agricultural credit is provided at self-sustaining rates to farmers who participate in INM's eradication efforts.

The project is also providing roads and potable water systems to residents of the valley.

The GOP's budget constraints have resulted in a lack of counterpart funds, which in turn has slowed procurement of needed goods and services. Recently, the security situation in the valley has deteriorated, some farmers cooperating in the eradication effort have been killed. The estimate from sources in the field is that the project goals have been set back a year.

We remain dedicated to reducing production of coca and in providing alternative sources of income to farmers in the region. We look forward to continued discussions with INM on the most appropriate responses to the needs of the coordinated effort and to continued cooperation in achieving our shared goals.

I would be happy to answer any questions you may have at this time.

STATEMENT OF MATTHEW HENNESEY, ACTING DEPUTY ASSISTANT SECRETARY, DEVELOPING NATIONS, U.S. DEPARTMENT OF THE TREASURY

Mr. Chairman, I am pleased to appear before the Task Force on International Narcotics Control and to participate in the hearings you are conducting this morning. For five years, the Treasury Department has worked closely with the Department of State in identifying development assistance programs, including those of the multilateral development banks, which have an impact on illicit narcotics-producing regions of the world. A description of those programs has been included in the most recent inter-agency reports on these matters which, I understand, are being made available to the members of the Task Force.

At the outset, I would like to emphasize that the multilateral development banks are developmental institutions. Their basic purpose is to help promote economic growth and development in borrowing member countries. For this reason, although their activities are not specifically directed at narcotics control, they can have a very helpful corollary effect.

Let me begin by outlining very briefly the level and the nature of the assistance that has been provided by the multilateral development banks to some of the illicit narcotics-producing regions since 1975. I would also like to give you an idea of the levels of lending that are now under consideration for funding future projects in those regions. These levels of future funding are not firm. They are subject to change as the banks go through their project appraisal process. The information is taken from listings of projects appearing in operational summaries which are published monthly by the banks.

Mexico has been the largest single recipient of this assistance. Since 1975, its narcotics-producing regions have received \$2,387.5 million in loan commitments with an additional \$952 million currently under consideration for other projects in the pipeline. I want to emphasize that these figures do not represent multilateral development bank lending totals for the entire country. They apply only to those lending programs which affect specific states which have been identified as including illicit narcotics-producing regions. In the case of Mexico, these states include, among others, Chiapas, Chihuahua, Durango, Guerrero, Hidalgo, Oaxaca, Jalisco, Sonora, Sinaloa, and Veracruz.

Other recipients of relatively large amounts of lending are Peru, Thailand, and Pakistan. Peru, which has very important sources of coca, has received \$536.5 million in loan commitments to its narcotics-producing regions since 1975. Another \$40.0

million is being considered for projects which will have an economic impact in Amazonas, Apurimac, Ayacucho, Cajamarca, Cuzco, and other departments which have been specifically identified as producers of illicit narcotics. Thailand, which has regions particularly well-known as a source of opium, has received \$297.5 million in loans for those regions from the multilateral development banks with \$136.1 in additional funds programmed for other projects. Pakistan, another significant source of illicit drugs, has already received \$267.5 million in loans to its narcotics-producing regions and is expected to receive an additional \$142.0 million for loans now under consideration by the banks.

The figures for loans affecting drug-producing regions in other borrowing countries are included in a summary that I have appended to this statement. The overall totals for all the countries involved is \$4,199.6 million in loans already committed since 1975 and another \$1,678.6 million in loans which are included in the monthly operational summaries of the banks. It should be kept in mind that in some instances a portion of loan proceeds may have been utilized in areas outside these regions; but, by and large, the figures are as close as we can come to estimating the overall flow of development assistance to the drug-producing regions. Almost all of the loans are for agriculture or agricultural-related purposes. This could include loans for integrated rural development, those for credit programs in the agricultural sector and those for construction or reconstruction of irrigation works.

To the extent they have disbursed, these loans have all had a positive economic impact on drug-producing regions of the borrowing countries. It is fair to conclude as well, I believe, that they have helped efforts directed at reducing or at least holding down the rate of increase of illicit narcotics production.

The fundamental objective of the multilateral development banks is to promote greater economic growth and development in their borrowing member countries. Individual projects are selected on the basis of their economic viability. The critical factors are the highest economic rate of return and a calculation of the benefits that can be achieved for the largest number of people. Agricultural projects, in particular, are designed to increase production levels and to provide larger employment opportunities for poor people in rural areas. It seems to me that programs of this kind cannot help but have a very positive effect on other efforts to control the production of illicit narcotics.

However, there are some limitations on what can be done in support of the control programs. These limitations are well-known to members of the Task Force, I am sure. To cite one example, the income generated by a poppy crop in Thailand is substantially higher than the income that could be generated by other crops that might be substituted in the same environment such as fruits and vegetables. Moreover, the margins of profitability in the opium trade are very wide and they could easily absorb significant increases in producer prices and still compete very effectively with substitute crops. Finally, in many instances, the poppies are grown by politically disaffected people or by insurgency groups who do not have security of tenure on the land they are cultivating. All of these factors could have very large implications for the success of crop substitution proposals.

In the countries we are talking about today, agricultural projects located closer-in

H 1508

## CONGRESSIONAL RECORD — HOUSE

March 8, 1984

and in relatively more populated areas would presumably have higher rates of return and benefit more people than projects in the remote and more thinly-populated narcotics-producing areas. Obviously these are factors which have to be taken into account when loan applications are made to the multilateral development banks. We all agree, I believe, that the banks should continue to take these factors into account when they carry out their appraisals of project proposals.

To sum up, Mr. Chairman, over the past five years the multilateral development banks have committed substantial amounts of funding for projects located in illicit narcotics-producing regions. It is difficult to make a direct linkage between the implementation of any one of these projects and the success of specific programs to control or curtail the production of illicit narcotics. At the same time, I do believe that the banks help the overall situation in those regions very materially by increasing the range of economic opportunities and by providing alternative forms of employment.

The multilateral development banks have every reason to support strongly increased efforts to control illicit narcotics production. As important agents for development, they seek to draw people into the licit economies of their borrowing member countries. They cooperate with each other and with other international agencies such as the United Nations Fund for Drug Abuse Control.

The Treasury Department has always encouraged these programs in the past. We are prepared to cooperate fully in the future, with both other parts of the Executive Branch and the Committees of the Congress.

#### MULTILATERAL DEVELOPMENT BANKS ASSISTANCE TO ILLICIT NARCOTICS PRODUCING COUNTRIES

The following chart lists the total amount of loans in the agricultural sector, approved and proposed through 1983, funded by the MDBs in narcotics growing regions of the main producing countries.

(In millions of dollars)

Country	Approved <sup>1</sup>	Proposed
<b>Afghanistan:</b>		
IBRD	43.0	
ADB	1.5	
Subtotal	44.4	
<b>Bolivia:</b>		
IBRD	38.0	13.0
IDB	50.2	34.0
Subtotal	88.2	47.0
<b>Burma:</b>		
IBRD		12.0
ADB	25.0	
Subtotal	25.0	12.0
<b>Colombia:</b>		
IBRD	235.0	51.0
IDB	138.7	95.0
Subtotal	373.7	146.0
<b>Iran: No proposed loans in source areas.</b>		
<b>Jamaica:</b>		
IBRD	33.0	15.1
IDB	41.9	40.0
Subtotal	74.9	55.1
<b>Laos:</b>		
IBRD		32.0
ADB	5.9	
Subtotal	5.9	32.0
<b>Lebanon: No proposed loans in source areas.</b>		
<b>Mexico:</b>		
IBRD	1,526.0	450.0
IDB	741.5	582.0
Subtotal	2,367.5	952.0
<b>Morocco:</b>		
IBRD	76.0	115.4
AFDB	42.4	
Subtotal	118.4	115.4

Country	Approved <sup>1</sup>	Proposed
<b>Pakistan:</b>		
IBRD	210.7	92.0
ADB	56.8	50.0
Subtotal	267.5	142.0
<b>Peru:</b>		
IBRD	160.0	40.0
IDB	376.5	
Subtotal	536.5	40.0
<b>Thailand:</b>		
IBRD	255.5	137.1
ADB	42.0	
Subtotal	297.5	137.1
<b>Bank totals:</b>		
IBRD	2,677.2	957.6
ADB	131.2	50.0
AFDB	42.4	
Grand total	4,199.6	1,678.0

<sup>1</sup> Approved loans date from April 1975 to December 1983.

#### STATEMENT OF DR. LAWRENCE J. KORB, ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER, INSTALLATIONS AND LOGISTICS, DEPARTMENT OF DEFENSE

##### INTRODUCTORY COMMENTS

Mr. Chairman, other members of the Task Force, I am pleased to appear before your panel to state the role of the Defense Department in curbing drug trafficking. We in Defense are very appreciative of the long-standing interest and support that the ranking minority Task Force member, Mr. Gilman, has provided to our drug abuse programs over the years. And, Mr. Smith has been active as both a member and guest of a number of other investigative and oversight panels examining our interdiction role. I am also pleased that Mr. Reid has joined this issue. His standing interest in the criminal implications of drug trafficking is well-known.

##### OUTLINE OF STATEMENT

In my statement, Mr. Chairman, I would like to cover four topics:

First, the changes in the law that have only recently allowed for more DoD participation.

Second, the types of assistance that DoD can provide and the costs involved in terms of readiness as well as budgetary considerations.

Third, I will cover our involvement in Operation BAT, recognizing that the full Committee conducted a study of the Bahamian situation in October 1983.

##### CLARIFYING THE POSSE COMITATUS DOCTRINE

Military assistance, whether under the auspices of PL 98-164 (State Department Authorization Act) and, more specifically, Section 1003, or other authorities, was better defined in December 1981 when the President signed PL 97-88, clarifying the Posse Comitatus Act (codified at 18 USC 1385). The changes added a new chapter to Title 18 of the US Code, giving DoD a new role in combating the entry of illicit drugs into the United States.

The law specifies major constraints on military assistance to drug enforcement.

Our assistance must be "passive" and "indirect".

Our support is based upon requests from the civilian law enforcement agencies—we do not take major initiatives in civilian enforcement activities.

These limitations will become clearer as I outline the allowable types of assistance.

Section 371 of Title 18 authorizes DoD to share information which is collected during routine military operations with qualified Federal, state, and local law enforcement officials.

The Secretary of Defense may, under Section 372 make facilities and equipment available to such officials.

While Section 375 bans direct participation of military personnel in drug enforcement arrest and seizure activities, Section 374 allows for personnel assistance under certain conditions.

Military personnel may be used to operate and maintain loaned equipment used for controlling air and sea traffic.

And, under emergency conditions, military personnel may provide bases of operations for Federal law enforcement officials outside the land area of the United States (I will discuss the Defense Department activities in the Bahamas later on.)

Finally, all assistance provided by DoD is subject to reimbursement considerations.

##### TYPES OF MILITARY ASSISTANCE

Having stated the authorities behind the expanded Defense role in drug enforcement, I would like to illustrate how law and policy operate in fulfillment of our responsibilities.

DoD provides assistance to drug interdiction efforts in addition to its in-house drug abuse prevention programs.

Interdiction has three components, each of which has a special meaning for Defense.

Detection and surveillance constitute the principal interdiction assistance functions of DoD. This activity is clearly passive and indirect, therefore posing no conflict with either the statute, or Congressional intent found in the legislative history to PL 97-88.

Interception—Having located a suspect, effective interdiction requires the means to intercept it. Here DoD's role is largely limited to the provision of certain types of equipment, largely aircraft. However, the Navy, which is exempt from Posse Comitatus, complies as a matter of policy. Under Coast Guard direction, it has used force to stop certain suspect vessels on the high seas. The use of violent force, I hasten to add, is limited to stateless vessels or to prior arrangements with the flag nation of the suspect vessel. Also, the Navy vessel must be acting under the maritime law enforcement authority of the Coast Guard.

Arrest and seizure—DoD plays no role in this area of interdiction—with the sole exception mentioned above regarding Navy use of force on the high seas.

At this juncture, Mr. Chairman, I would like to cover specific types of assistance. To aid this effort, I have appended tables of assistance from each of the military departments to this statement, and will summarize them for you.

Over the past fiscal year, the Army, Navy and Air Force have provided nearly \$6 million of help to all levels of the drug enforcement community, with the great part going to Federal agencies. For all services, more than 90 percent of all requests for assistance were approved, with disapprovals very closely monitored by my staff.

Generally such disapprovals involve requests which would violate the law—such as a request for military police to patrol a civilian park.

The major Defense systems engaged in drug enforcement activities include:

Navy E-2C "Hawkeye" surveillance aircraft with active and reserve crews which patrol the East and West Coasts, the Gulf Coast and the Southwest border.

Navy P-3 anti-submarine warfare aircraft from reserve and active forces fly well off shore covering Caribbean approaches and Atlantic trafficking lanes.

The Air Force, too, rigorously committed itself in fiscal year 1983 to the drug effort:

35 AWACS missions were flown at a non-reimbursable cost of nearly \$800,000 while 55 B-52 sorties were also made.

22 C-130 missions were also launched, largely in the Gulf area.

March 8, 1984

## CONGRESSIONAL RECORD — HOUSE

H 1509

Third, in the Bahamas, 650 helicopter missions, leading to seizures of more than \$250 million of drugs, were flown in seven months.

In all, the Air Force provided 762 missions, or thousands of flight hours, at a non-reimbursable cost of more than \$1 million.

The Army has been more active in lending equipment:

Four state-of-the-art Blackhawk helicopters and four Cobras have been loaned to the Customs Service.

## AREAS OF DEPLOYMENT

Security requires that I discuss the geographical deployment of military assistance in generalities, Mr. Chairman, but I am always prepared to provide you with detailed information in a protected forum. In brief, the deployments can be summarily presented as follows:

DoD provides military personnel to the six regional centers of the National Narcotic Border Interdiction Systems.

Coast Guard law enforcement teams are deployed with individual ships or flotillas operating along U.S. coastlines or in Latin and South America. Together, ship as well as Navy installation radars guard the Yucatan and Windward passages. Mobile Marine Corps radars are provided when available on request along our borders. And, in Key West and the Gulf, Navy hydrofoils are engaging traffickers.

Balloon-borne radars, called "aerostats," guard the Florida coast and approaches from Cuba and the Bahamas.

Backing up this already impressive array of equipment and surveillance aircraft is DoD's commitment to future strategy developments.

Along land-locked borders, we have deployed Army, Navy, and Marine Corps aircraft, to monitor potential incursions from Mexico.

Also of great importance is the effort made by my staff to bolster cooperation with state and local law enforcement officials as well. To date, my staff has met with many Law Enforcement Coordinating Committees and U.S. Attorneys to explain DoD assistance policies. Such meetings have been held in Maine, New York, Virginia, North Carolina, Florida, Tennessee, Oklahoma, Mississippi, Louisiana and California.

My intention, Mr. Chairman, is to demonstrate the Defense Department assets and assistance in all forms make a difference in the effectiveness of the air drug interdiction program. Regrettably, however, although seizures have risen sharply since we have joined the drug battle, there is reportedly more trafficking, growing geometrically against our efforts. The American market demand for illicit drugs provides a powerful incentive for domestic and foreign criminal elements.

## OPERATION BAT (BAHAMAS &amp; TURKS): PART OF DOB'S ZONE DEFENSE

Although Section 1003 of the State Department Authorization Act (PL 98-164) does not apply directly to DoD, our support to the drug enforcement agencies acting under this law may be characterized as an "outer zone" or secondary defense. Our assistance becomes important when other in-country methods to prevent crop cultivation and distribution overseas fail. But the "outer zone" defense also pertains where a country becomes so overrun that it is unable to cope—this is the case in the Bahamas where DoD is assisting DEA.

In January 1983, I sent my Principal Deputy to the Bahamas to investigate complaints of faltering communications equipment and poor aviation assistance. Within thirty days after that visit, I sent a DoD Military Evaluation Team to do a complete

survey of all needs; they were told to prepare an assistance package for DEA.

By May, an Air Force special operations warfare unit was operating on site with Navy assistance. A communication plan was completed by the end of the summer, with the State Department agreeing to procure ground communications equipment by December. The Defense Department, and especially the Air Force, Mr. Chairman, has responded to the Bahamian situation in a manner consistent with the finest, wartime traditions:

The Air Force made far-reaching adjustments in training scheduling to avoid an adverse impact on readiness.

Dedicated Air Force crews worked around the clock to keep the unit available despite significant hardships and the operational inefficiencies of operating far from the home station.

And, on January 9, 1984, three Air Force members made the supreme sacrifice when they along with a DEA agent and Bahamian police officer were killed in an aviation accident.

Mr. Chairman, the Defense Department remains unwavering in its commitment, and has programmed a replacement for the helicopter lost during a mission.

I know that the Task Force on International Narcotics Controls is also interested in DoD activities to protect American military personnel overseas. I would like to add that the status of Forces Agreements (SOFA) in NATO, bilateral accords elsewhere, and the imperative of sovereignty govern our conduct in this regard. The host nations, often operating with DEA, develop strategies which reach to the protection of American service people. However, we have been asked to assist DEA and host governments in South Korea and Greece and, under the law, are able to do so. Within DoD, of course, our drug abuse prevention program is extensive, costing \$76 million in FY 83 during which time there were also 51,000 non-judicial punishments and 6,000 courtmartial for drug abuse offenses.

## SUMMARY

In closing, Mr. Chairman, I wish to reiterate DoD's support of the drug enforcement community. In this regard, I have organized at Department level our own Task Force on Drug Enforcement, headed by a highly respected Army Lieutenant General. His mandate is to assure me, the Secretary of Defense, and the President, that we are doing all that is feasible in this area. He and his staff are always available for consultation with Members, committees and staffs of Congress.

What we ask in return is recognition of the need for us to balance requests for assistance with budgetary restraint, readiness implications, and national security mission imperatives.

Thank you for the privilege to appear before the Task Force, Mr. Chairman. I would be pleased to take questions from any of the distinguished Task Force members.

## TABLES OF MILITARY ASSISTANCE FOR FISCAL YEAR 1983

## U.S. ARMY

## I. Major areas of deployment

A. Southwest U.S.—Aircraft and radar units.

B. Southeast U.S.—Aircraft for on-shore and off-shore surveillance.

## II. Types of support (approved requests)

	Number	Total costs	Reimbursable	Paid
A. Facilities use	46	\$1,200	\$1,200	\$1,200
B. Information	84			
C. Equipment (2 denied)	37	80	NA	
D. Mission support (aircraft, NNBIS personnel) (6 denied)	27	156,000	9,000	9,000
E. Training (2 denied)	37	40	NA	
F. Personnel (1 denied)	1			
G. Maintenance of loaned aircraft	NA	329,000	329,000	329,000
1. Border Patrol				
2. U.S. Customs Service		60,000	60,000	44,000
Total		546,320	399,200	383,200

## III. Summary requests

Total, 252; approved, 232; denied, 11; pending, 9.

## PROJECTIONS FOR FISCAL YEAR 1984

## U.S. NAVY

Northeast—Aerial surveillance.

Southeast—Aerial and maritime surveillance.

Bahamas and Caribbean—Facilities; serial, maritime surveillance; Coast Guard boarding party support; installation radars.

Southwest—Border Patrol.

Far West—Aerial and maritime surveillance.

## II. Types of support—Aviation

Atlantic forces: E-2C, OV-10D, P-3/S-3.

Pacific forces: E-2C/B, OV-10D, P-3/S-3.

Reserve forces: P-3.

## AVIATION SUMMARY

FY 1983: 3,000 flight hours were flown; \$4 million incremental costs were incurred.

## OTHER

Loan and training in the use of spare equipment.

Temporary custody of prisoners at Naval Air Station (NAS) Guantanamo Bay, Cuba while awaiting transportation.

Escorting/towing vessels seized by the Coast Guard.

Maintaining lookout for suspect vessels identified by the Coast Guard.

Use of shore-based air-search radars to detect and track suspicious aircraft. This amounted to over 1,000 hours in FY 83, mostly at NAS, Guantanamo Bay.

Providing personnel to help man the National Narcotics Border Interdiction System (NNBIS) regional centers.

Making available rifle and pistol ranges for agent proficiency training and "burn" pits to destroy illicit contraband.

Providing logistic support and replenishment at sea for Coast Guard ships.

## U.S. AIR FORCE

## I. Major areas of deployment

A. Southwest US (TX-OK-Western Gulf).

B. Southeast (off-shore coast, FL, Gulf-coast).

C. Bahamas and Caribbean.

## II. Types of support

Aviation	Missions	Costs	Reimbursement	Paid
A. E-3 (AWACS)	35	807,000	NA	
B. B-52 (Busy observer)	55	( <sup>1</sup> )	NA	
C. UH-1H (OPSBAT)	650	142,000	NA	
D. C-130	22	( <sup>1</sup> )	NA	
Total	762	949,000	NA	

<sup>1</sup> Unavailable.

H 1510

## CONGRESSIONAL RECORD — HOUSE

March 8, 1984

## IT IS TIME FOR A FAIR EMPLOYMENT CODE FOR U.S. BUSINESSES IN SOUTH AFRICA

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLARZ) is recognized for 5 minutes.

● Mr. SOLARZ. Mr. Speaker, recently the House adopted legislation which I had introduced which would require U.S. businesses in South Africa with more than 20 employees to follow a fair employment code that would bar discriminatory treatment of employees based on their race or national origin.

During the debate on the Export Administration in the Senate, Senator HATCH inserted into the RECORD a report which attempted to show that the fair employment code in my legislation, which is modeled on the Sullivan code and the European Economic Communities' fair employment code, far exceeded existing U.S. labor law and practices.

To clarify this issue, I asked the American Law Division of the Library of Congress to prepare an analysis of my legislation and U.S. law and labor practice. Today I am inserting this report into the CONGRESSIONAL RECORD so that my colleagues will understand that the policies embodied in title III of the Export Administration Act, are indeed based on U.S. labor law and practice with two modifications necessitated by South Africa's policy of apartheid. In South Africa the influx law and the Group Areas Act require blacks to obtain government passes to be able to travel or even seek work outside of the homelands to which the government has assigned all blacks regardless of where they were born.

Another argument, raised by opponents of the House legislation imposing mild sanctions upon the Government of South Africa until that nation makes progress in eliminating the evil of apartheid, is that black trade unions in South Africa are unhampered but in fact mass dismissals of strikers and arrests of organizers and trade union leaders are commonplace events in South Africa. Congressman HOWARD WOLFE, the outstanding and well-informed chairman of the House Subcommittee on Africa, explained the plight of black trade unionists to Senator HATCH last January.

Again, those who favor no action to indicate our Nation's abhorrence of apartheid claim that American businesses particularly those who have signed the voluntary Sullivan code have uniformly performed in the most exemplary manner in providing equal pay, employment, and advancement opportunities for their black workers. Reverend Sullivan, the author of the fair employment code first established in 1977, has twice testified before the Congress that only a mandatory fair employment code such as the one passed by the House will insure that all South African black employees of U.S. controlled firms are treated justly. Sullivan testified for

instance that in 1982 half of the Sullivan signatories in fact gave the code only lipservice.

Finally, let us remember that since 1978, the Congress has required the Department of State to evaluate whether South African firms wishing to receive Export Bank loans are making progress toward implementing a fair employment code—based on the Congressman Evans amendment to the Export Bank Reauthorization Act of 1978. Thus the State Department has some experience in monitoring employment practices.

Mr. Speaker, because of the extreme importance of the issue of apartheid, I ask that the full text of the American Law Division Report be inserted. I urge my colleagues concerned about the need for racial justice in South Africa to continue to support the enactment of the modest economic sanctions and fair employment code contained in the House version Export Administration Act so that those blacks and whites working for peaceful change in South Africa will know that the United States, the world's foremost democracy and champion of human rights has not forgotten them.

## LABOR STANDARDS FOR U.S. EMPLOYERS IN SOUTH AFRICA UNDER H.R. 3231, 98TH CONGRESS

This report sets forth a review of the labor standards provisions of Title III of the proposed "Export Administration Amendments Act of 1983," as passed by the House of Representatives on October 31, 1983, H.R. 3231, 98th Cong., 1st Sess. (1983). Title III is individually captioned the "United States Policy Toward South Africa Act of 1983." This review focuses on the analysis prepared by Labor Policy Association, Inc., on January 30, 1984 entitled "Special Memorandum: XII-I, Re: Analysis of Title III of H.R. 3231—the Export Administration Amendments Act of 1983." (Reference will be made to the foregoing analysis as "LPA Analysis"; references to H.R. 3231 will be to "the bill" or "the proposed bill.")

It is stated by the LPA Analysis that the labor standards in Title III of H.R. 3231 are inconsistent with U.S. law and practice in several important respects. On the other hand, the House Foreign Affairs Committee report accompanying the bill stated that the labor standards principles would not require a different or higher standard of behavior for U.S. employers in South Africa than required for U.S. employers in the United States. H.R. Rep. No. 257, Pt. 1, 98th Cong., 1st Sess. (1983). These specific points of contention are set forth in the remainder of this report.

1. Section 312(a)(1): Desegregation in Employment Facilities. It is noted in the LPA Analysis that there is no inconsistency between this section and U.S. law.

2. Section 312(a)(2): Equal Employment. The LPA Analysis notes that, in general, there is no inconsistency between this provision and U.S. law. It is stated, however, that section 312(a)(2)(A) differs from U.S. law "because it requires that any health, accident or death benefits be open to all employees, both salaried and hourly," and that under U.S. law distinctions may be based on salaried or hourly status.

The language of the bill actually provides that benefit plans must be "nondiscriminatory and open to all employees, whether they are paid a salary or are compensated

on an hourly basis" (emphasis added.) Although U.S. law permits distinctions based on hourly or salaried status, such distinctions are not permitted where such status is accorded in a racially discriminatory manner. Under one U.S. discrimination case, for example, the employer granted paid vacation to salaried employees, all of whom were white, but granted no vacations to hourly employees, the great majority of whom were black. The court found that the employer had discriminated against the black hourly paid employees because of race. *Williams v. Yazoo Valley/Minter City Oil Mill*, 469 F. Supp. 37, 52 (N.D. Miss. 1978). The actual language used in H.R. 3231 appears to incorporate this doctrine by requiring nondiscriminatory benefit plans; distinctions based upon hourly salaried status would not be permitted if those distinctions were based upon race. The bill does not appear to bar nondiscriminatory distinctions based on hourly or salaried status.

3. Section 312(a)(3). Equal Pay for Equal or Comparable Work. The LPA Analysis states that this section, which requires equal pay for all employees doing equal or comparable work, is in direct conflict with U.S. law. Reference is made to the Equal Pay Act of 1963, to the Supreme Court's decision in *County of Washington v. Gunther*, 452 U.S. 161 (1981), and to the District Court's decision *AFSCME v. State of Washington* (D. Wash., Dec. 14, 1983). These cases, however, dealt with the question of pay classifications based on sex rather than race. Defendants had argued that the equal pay for equal work standard of the Equal Pay Act limited pay claims under Title VII. It was not contended that pay differentials based on intentional racial discrimination were involved.

Moreover, in *County of Washington v. Gunther*, the Supreme Court did hold that the prohibition of sex-based wage discrimination in Title VII of the Civil Rights Act is not restricted to claims of equal pay for equal work, but extends to claims that lower wages were paid to females because of intentional sex discrimination, even though no member of the opposite sex held equal but higher paying jobs. In short, the Court held that Title VII prohibits an employer from paying lower wages to females in jobs that are comparable but not equal to jobs held by males, where part of that differential in pay is attributable to intentional sex discrimination. The sole issue resolved by the Court in *Gunther* was that failure to satisfy the "equal pay for equal work" standard of the Equal Pay Act (29 U.S.C. § 206(d)) could not in itself preclude a proceeding for discrimination under Title VII. In other words, an employer who intentionally paid women a lower wage for jobs which were comparable in worth to different jobs held by men would not violate the Equal Pay Act, since the jobs were not equal. That employer, however, would violate Title VII, which makes it unlawful for any employer to discriminate against any individual with respect to compensation because of sex (29 U.S.C. § 2000e-2).

The Court in *Gunther* did not deal with the claim of comparable worth, but did permit the claimants to attempt to prove by direct evidence that their wages had been depressed because of intentional discrimination "consisting of setting the wage scale for female guards, but not for male guards, at a level lower than its own survey of outside markets and the worth of the job warranted." 451 U.S. at 166.

In the light of this background, the principles embodied in the proposed bill appear to be consistent with U.S. law. The bill would

March 8, 1984

## CONGRESSIONAL RECORD — HOUSE

H 1511

require the employer to establish equal pay for all employees doing equal or comparable work. As the Supreme Court has indicated in *Gunther*, U.S. employers are barred by Title VII from discriminatorily establishing systems of unequal pay for work of equal or comparable worth. The proposed bill clearly indicates that its equal pay standard means equal pay without regard to race. The bill requires:

(A) establishing and implementing, as soon as possible, a wage and salary structure which is applied equally to all employees, regardless of race, who are engaged in equal or comparable work;

(B) reviewing the distinction between hourly and salaried job classifications, and establishing and implementing an equitable and unified system of job classifications which takes into account such review; and

(C) eliminating inequities in seniority and in-grade benefits so that all employees, regardless of race, who perform similar jobs are eligible for the same seniority and in-grade benefits (emphasis added). Employers are thus required, under both existing U.S. law and under the proposed bill, to refrain from classifying or compensating employees in such a way that the differential in compensation for work of equal or comparable value is based upon the race of their employees.

It is further noted by the LPA Analysis that the bill "requires that employers review the distinction between hourly and salaried job classifications, and implement an equitable and unified system of job classification. This would result in government intervention in the evaluation and classification of employees which is directly contrary to the Equal Pay Act." As a full review of the proposed language indicates, the employer is required to develop a wage and salary structure "which is applied equally to all employees, regardless of race;" in addition, the employer must review the distinction between hourly and salaried employees and take that review into account in classifying jobs; and must eliminate inequities in seniority and in-grade benefits that are based on race. The obligation established by the bill would appear to be substantially the same as an employers obligation under U.S. law to refrain from practices which "discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment, because of such individual's race . . ." or which "limit, segregate, or classify his employees . . . in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race . . ." 29 U.S.C. § 2003-2(a).

In summary, it is unlawful under U.S. law, and would be unlawful under the proposed bill, for an employer intentionally to classify employees on an hourly and salaried on the basis of race; to establish discriminatory job classifications or to pay black employees at a lower wage scale than the worth of their jobs would warrant; or to maintain a seniority or in-grade benefits system that discriminates on the basis of race.

4. Section 312(a)(4): *Minimum Wage Related to Cost of Living*. The LPA Analysis states the H.R. 3231 "would require that minimum wage and salary structure be based upon a cost-of-living index".

It is clear that U.S. employers are subject to the statutory minimum wage established by the Fair Labor Standards Act of 1938. This minimum was initially set at 25 cents per hour in 1938 and has been gradually increased statutorily by Congress in successive amendments to its present rate of \$3.35 per hour, effective January 1, 1981. 29 U.S.C. § 206(a)(1). The rate has been increased

statutorily by Congress in response to increases in the cost-of-living index and the inflation rate, but has not been indexed to any rate.

The proposed bill adapts this principle to South Africa by requiring establishment of "a minimum wage and salary structure based on a cost-of-living index which takes into account the needs of employees and their families." (emphasis added). The bill does not mandate a specific minimum wage, as does U.S. law, and does not mandate periodic increases in such a rate. It does require employers to take employee needs into account in setting wages.

5. Section 312(a)(5): *Increase in Representation of Blacks in White Collar Positions*. Section 312(a)(5) mandates "increasing, by appropriate means, the number of blacks and other nonwhites in managerial, supervisory, administrative, clerical, and technical jobs for the purpose of significantly increasing the representation of blacks and other nonwhites in such jobs." The bill suggests several methods of accomplishing this goal, including training, recruiting, education, and time tables. It is stated by the LPA Analysis that this provision "exceeds U.S. law by requiring affirmative action in all circumstances."

It should be noted that the bill does not use the term "affirmative action" and does not impose numerical goals, percentage goals, or quotas. It should also be noted, moreover, that a substantial number of large U.S. corporations are subject to the affirmative action requirements of Executive Order 11246 in connection with government contract work.

6. Section 312(a)(6): *Improve the Quality of Life Outside the Work Environment*. This section, as noted in the House Report, does not correspond to U.S. labor law.

7. Section 312(a)(7): *Recognition of Labor Unions and Implementation of Labor Practices*. It is noted by the LPA Analysis that section 312(a)(7)(A), which establishes organizational rights, is virtually identical to the provisions of section 7 of the National Labor Relations Act (NLRA) (29 U.S.C. § 157). The Analysis also notes that the practices enumerated in section 312(a)(7)(B) (i)-(v) are nearly identical to the employer unfair labor practices found in section 8(a) of the NLRA (29 U.S.C. § 158(a)).

It is stated, however, that section 312(a)(7)(C) of the bill "represents a substantial departure from U.S. law" insofar as it permits reasonable access to employer premises by nonemployee union organizers. As the LPA Analysis itself notes, U.S. labor law does permit union access if there are no other "available channels of which will enable it to reach the employees through reasonable efforts." In *NLRB v. Babcock and Wilcox*, 351 U.S. 105, 112 (1956), the Supreme Court held that an employer may validly post his property against nonemployee distribution of union literature if reasonable efforts by the union through other available channels of communication will enable it to reach the employees with its message . . . . The Court also stated that "when the inaccessibility of employees makes ineffective the reasonable attempts by nonemployees to communicate with them through the usual channels, the right to exclude from property has been required to yield to the extent needed to permit communication of information on the right to organize." 351 U.S. at 172.

The language of the bill is therefore substantially similar to existing U.S. law as interpreted by the Supreme Court. The bill provides for reasonable access at reasonable times, while U.S. law permits the National Labor Relations Board to order access if no reasonable alternatives are available. The

right of access by nonemployees to an employer's premises under the proposed bill is therefore subject to the requirement of reasonableness, just as under U.S. law. Although the provision is not found in the NLRA, it would appear to be consistent with the policy of the Act.

Moreover, the hearing record accompanying the proposed bill contains testimony supporting the need for reasonable access and noting the difficulty often encountered by workers in gaining access to representation information:

These provisions . . . provide for avenues of communication which are an essential prerequisite to the realization of self-organization rights. These provisions of the Solars bill are particularly important in a country like South Africa where access to black townships may be denied union organizers, thus making recruitment at the workers' homes particularly difficult, and emphasizing more the need for contact at the work place which is provided for by the Solars bill. It has long been recognized in the West that communication at the work place is particularly important in connection with the right of workers to freely organize. This is especially true in South Africa.

Prepared Statement of William B. Gould, Professor of Law, Stanford Univ. Law School, in U.S. Corporate Activities in South Africa, Hearings and Markup before Subcomm. of Comm. on Foreign Affairs 146, 97th Cong., 2d Sess. (1982).

It is also stated that section 312(a)(7)(D) exceeds the requirements of the NLRA by demanding those covered take steps to insure "recognizing labor unions and implementing fair labor practices including . . . allowing employee representatives to meet with employer representatives during working hours without loss of pay for purposes of collective bargaining, negotiation of agreements, and representation of employee grievances."

Under the NLRA, payment of employees for time spent in serving as union representatives on matters directly relating to the bargaining unit is a mandatory subject of bargaining, as is the payment of wages for time spent in bargaining sessions by employee members of a union negotiating team. See Fed. Reg. of Emp. Svc. §§ 59.54 (1979). This means that a union may bargain to impasse and engage in concerted activity over such demands. Moreover, the NLRA expressly states in section 8(a)(2) "an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay." Thus, while official time for union representation is not expressly mandated by the NLRA, unions are permitted to strike to obtain that benefit, and employers are not penalized for granting it.

In the context of South Africa, moreover, the hearing record accompanying the proposed bill (set forth above) indicates that "communication at the work place is particularly important in connection with the right of workers to freely organize. This is especially true in South Africa."

The proposed bill, in section 312(a)(7)(E), provides for "regularly informing employees that it is company policy to consult and bargain collectively with organizations which are freely elected by the employees to represent them." It is objected that "there is no similar notification requirement under the NLRA absent a finding of an unfair labor." The LPA Analysis notes, however, that one of the conventional remedies ordered by the NLRB in unfair labor practice cases has been the requirement that the respondent post notice that it will cease and desist from the unfair labor practice in question. This

H 1512

## CONGRESSIONAL RECORD — HOUSE

March 8, 1984

type of notice, in response to an unfair labor practice finding, is only one of the many posting-of-notice requirements presently applicable to U.S. employers under existing labor and employment discrimination statutes. Employers must post notices of minimum wage, overtime, equal pay and child labor requirements under the Fair Labor Standards Act (29 C.F.R. § 516.4); safety and health requirements under the Occupational Safety and Health Act (29 U.S.C. § 657(c)(1)); nondiscrimination requirements under title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e-10); and age discrimination provisions (29 U.S.C. § 627).

Federal contractors must post notice under Executive Order 11246, (41 C.F.R. § 60-1.41); the Vietnam Veterans Readjustment Assistance Act of 1974 (41 C.F.R. § 250.4); the Rehabilitation Act of 1973 (41 C.F.R. § 60-741.3); the Davis-Bacon Act (40 U.S.C. § 276a(a)); the Walsh-Healey Act (41 C.F.R. § 50-201.1); and the Service Contract Act of 1965 (29 C.F.R. § 4.6(e)). Most employers are also subject to state laws requiring posting of notice of workers compensation, unemployment insurance benefits, and other state labor laws.

In light of the wide variety of requirements imposed on U.S. companies by U.S. legislation, it may be argued that the notice-posting requirements imposed by the proposed bill do not appear to impose a higher standard than domestic law. Moreover, it may be noted that notification by affected employers is one of the few available means of communicating the relevant provisions U.S. laws to South African employees who otherwise may have little or no access to those provisions.

It is also stated in the LPA Analysis that the notification requirement "can be read as requiring continuous bargaining or consultation notwithstanding the terms of a collective bargaining agreement." It is difficult to see how this requirement could be read into the language of the bill, since the bill's language simply tracks the language of proposed section 312(a)(7)(B)(v), under which employers must refrain from "refusing to bargain collectively with any organization freely chosen by employees under this paragraph." This language in turn is based on section 8(a)(5) of the NLRA. 29 U.S.C. § 158(a)(5).

It is also stated that "the obligation to consult and bargain under Section 312(a)(7)(E) "is with all organizations which are freely elected by employers to represent them." (emphasis in original). It should be noted that the underscored word "all" does not appear in language of the bill. The language of section 312(a)(7)(E) does not require bargaining with all organizations, but instead merely requires employers to "inform" employees that it is company policy to comply with the statutory requirements to consult and bargain collectively with elected employee representative organizations.

Finally, it is stated that section 312(a)(7)(F) of the bill would require that "employers and employee representatives select impartial persons to resolve election, grievance, negotiation or other disputes." It should be noted that the proposed language actually requires "utilizing impartial persons mutually agreed upon by employer and employee representatives to resolve disputes concerning election of representatives, negotiation of agreements or grievances arising thereunder, or any other matters arising under this paragraph." (Italic added).

As the underscored language indicates, the appointment of impartial persons to resolve disputes is subject to the consent of both parties. This impartial dispute resolution provision is clearly consensual process

open to the parties as a substitute for international litigation under the enforcement provisions of the Act. The U.S. national labor policy with respect to grievance arbitration is set forth in section 203(d) of the Taft-Hartley Act:

Final adjustment by a method agreed upon by the parties is hereby declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective-bargaining agreement. 29 U.S.C. § 173(d).

This policy is congruous with the requirement of the proposed bill to utilize neutrals mutually agreed upon by the parties to resolve disputes. The scope of the dispute resolution procedure proposed in the bill also includes representation and negotiation disputes, in view of the fact that the bill does not include the administrative and judicial enforcement mechanisms available under U.S. law.

In summary, a review of the labor standards established by Title III of H.R. 3231 permits the argument to be made that the bill does not require a different or higher standard of behavior for U.S. employers in South Africa than required for U.S. employers in the United States. As the foregoing discussion has indicated, each provision of the labor standards could be said to have a related provision in U.S. law. The following requirements of the bill are found in U.S. law:

- (A) Desegregation of employment facilities;
- (B) Equal employment;
- (C) Equal pay;
- (D) Minimum wage;
- (E) Increasing minority representation in higher jobs; and
- (F) Labor union representation.

In virtually every respect, the requirements of the proposed bill appear to be weaker and more limited than the comparable requirements of U.S. law. The bill does not provide the elaborate administrative enforcement procedures available through the National Labor Relations Board, the Equal Employment Opportunity Commission, or the Department of Labor. While U.S. discrimination law covers age, sex, national origin, and religion, the provisions of the proposed bill are confined to discrimination on the basis of race. It can therefore be argued that, on balance the proposed bill would not impose a higher standard on U.S. employers in South Africa than on domestic employers.

VINCENT E. TREACY,  
Legislative Attorney,  
American Law Division. ●

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

Mr. BOLAND (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. FRENZEL (at the request of Mr. MICHEL), for today after 12 o'clock, on account of official business.

Mr. MCKINNEY (at the request of Mr. MICHEL), for today and balance of the week, on account of illness in the family.

Mr. HORTON (at the request of Mr. MICHEL), for today after 12 o'clock, on account of official business.

Mr. BROOMFIELD (at the request of Mr. MICHEL), for today after 12 o'clock, on account of official business.

Mr. WINN (at the request of Mr. MICHEL), for today after 12 o'clock, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FRANKLIN) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS of Oklahoma, for 60 minutes, March 14.

Mr. BROYHILL, for 60 minutes, today.  
Mr. BURTON of Indiana, for 60 minutes, today.

Mr. GILMAN, for 60 minutes, March 15.

(The following Members (at the request of Mrs. HALL of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. RAY, for 30 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. HUGHES, for 5 minutes, today.

Mr. MOLLOHAN, for 60 minutes, on March 13.

Mr. FASCELL, for 5 minutes, today.

(The following Members (at the request of Mr. HUGHES) to revise and extend their remarks and include extraneous material:)

Mr. SOLARZ, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HAWKINS, and to include extraneous material notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost \$1,818.75.

(The following Members (at the request of Mr. FRANKLIN) and to include extraneous matter:)

Mr. WILLIAMS of Ohio.

Mr. RITTER in two instances.

Mrs. SMITH of Nebraska.

Mr. YOUNG of Florida.

Mr. MARLENEE.

Mr. MCGRATH in two instances.

Mr. FRENZEL.

Mr. GEKAS.

Mr. BEREUTER.

Mr. LOTT.

Mr. COUGHLIN.

Mr. DREIER of California.

Mr. FORSYTHE.

Mr. SHUSTER.

Mr. LUJAN.

Mr. SMITH of New Jersey in three instances.

Mr. CLINGER.

Mr. HYDE.

Mrs. ROUKEMA.

(The following Members (at the request of Mrs. HALL of Indiana) and to include extraneous matter:)

Mr. RANGEL in two instances.

Mrs. BURTON of California.